

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 241218365
M. JONES	)	
	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellant:	M. Jones
For Respondent:	Hubeyb Kabulantok, Attorney
For Office of Tax Appeals:	Namrita Randhawa, Program Specialist

H. FAMULARO, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Jones (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$2,515.88 for the 2019 tax year.

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellant's claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. On April 23, 2021, appellant untimely filed a California Resident Income Tax Return for tax year 2019 reporting total tax of \$126, no withholding, and a total amount due of \$126. Appellant paid the amount due on the same day.
2. FTB then sent appellant a notice imposing a late filing penalty and interest for the 2019 tax year totaling \$134.88, which appellant paid on June 16, 2021.
3. On February 12, 2024, FTB sent appellant a notice of a nonwage withholding credit of \$2,380.95, which appellant did not claim on his 2019 return. The notice advised

- appellant that to receive a refund of the credit, he had to file an amended tax return before the expiration of the statute of limitations.
4. On July 24, 2024, appellant filed a 2019 amended return, which reported total tax of \$126, withholding of \$2,381, and a refund due of \$2,255. Appellant attached to his 2019 amended return a California Explanation of Amended Return Changes, which reported a refund of \$2,381, which is the refund shown on the amended return of \$2,255, plus the tax paid with the original return of \$126.
 5. FTB accepted the 2019 amended return and treated it as a claim for refund of \$2,515.88, which is comprised of appellant's refund requested of \$2,381, plus the late filing penalty and interest paid by appellant of \$134.88.
 6. FTB sent appellant a notice denying his refund claim of \$2,515.88 because the statute of limitations had expired.
 7. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed unless a claim for refund is filed within: (1) four years from the date the return was filed, if the return was timely filed pursuant to an extension of time to file; (2) four years from the due date for filing a return for the year at issue (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. (R&TC, § 19306(a).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellant does not dispute that his 2019 amended return was filed after the expiration of the statute of limitations. However, appellant appears to assert that he did not understand FTB's notice regarding his unclaimed nonwage withholding credit of \$2,380.95 for the 2019 tax year because "no specifics" were provided. Appellant contends that he called FTB multiple times, but by the time he was able to speak with a representative, the statute of limitations to file his 2019 amended return had expired but he "was told to submit it anyway."

The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) FTB does not have an obligation to discover a taxpayer's overpayment or inform a taxpayer of the time within which a claim for a refund must be filed. (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856; *Appeal of Cervantes* (74-SBE-029) 1974 WL 2844.) Without a legislatively enacted exception to the

statute of limitations, OTA is unable to provide the relief appellant seeks. (See *Appeal of Estate of Gillespie, supra.*)

HOLDING

Appellant's claim for refund is barred by the statute of limitations.

DISPOSITION

FTB's action is sustained.

Signed by:



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Hans Famularo
Administrative Law Judge

We concur:

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Sheriene Anne Ridenour
Administrative Law Judge

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Amanda Vassigh
Administrative Law Judge

Date Issued: 6/24/2026