

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 260124218
B. GAMBLE	)	
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OPINION

Representing the Parties:

For Appellant:	B. Gamble
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For Respondent:	Anthony S. Epolite, Attorney
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A. KLETTER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, B. Gamble (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant's claims for refund of \$2,352.78 and \$542.28 for the 2019 and 2020 tax years, respectively.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05(b).)

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 the statute of limitations bars appellant's claims for refund.

FACTUAL FINDINGS

1. Appellant did not file a timely 2019 or 2020 personal income tax return.
2. FTB obtained information indicating that appellant received income sufficient to prompt a filing requirement for the 2019 and 2020 tax year but had not filed a return. FTB issued Notices of Proposed Assessment (NPAs) for the 2019 and 2020 tax years, which estimated appellant's taxable income based on third party reporting of income to FTB, and proposed to assess tax, penalties, filing enforcement fees, and interest.

3. For the 2019 tax year, appellant failed to timely protest the NPA, which went final, and so the liability became due and collectible. FTB collected a payment of \$2,664.33 on November 14, 2022.
4. For the 2020 tax year, appellant protested the NPA. FTB requested additional information. When appellant did not respond, the NPA went final, and FTB collected payments of \$216 and \$326.28 on October 25, 2023, and November 8, 2023, respectively.
5. On October 9, 2025, appellant filed personal income tax returns for the 2019 and 2020 tax years, reporting zero total tax.
6. FTB processed appellant's returns, abated the penalties and the filing enforcement fees,¹ and treated the returns as claims for refund for the 2019 and 2020 tax years.
7. On October 23, 2025, FTB informed appellant that it determined that appellant had overpayments of \$2,352.78 and \$542.28 for the 2019 and 2020 tax years, respectively, but FTB denied appellant's claims for refund because the statute of limitations expired.
8. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund may be allowed unless a claim for refund is filed within the later of: (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 (determined without regard to any extension of time to file); or (3) one year from the date of the overpayment. The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) The burden of proof is by a preponderance of the evidence. (Cal. Code Regs., tit. 18, § 30219(b).)

Appellant does not contest – and OTA finds no error in – FTB's determination that appellant's claim for refund was untimely under R&TC section 19306. Instead, appellant claims that she did not owe income tax for the 2019 and 2020 tax years, and that FTB's actions in collecting payments and denying the refunds have caused severe personal and financial hardship.

However, there is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Absent an

¹ For the 2019 tax year, FTB did not abate a collection cost recovery fee of \$316.

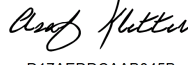
exception,² a taxpayer's untimely filing of a claim bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) Unfortunately, even if a taxpayer is unaware of the statute of limitations, ignorance of the law does not excuse a taxpayer's failure to timely file a claim for refund. (*Appeal of Spradlin* (75-SBE-010) 1975 WL 3271.) Moreover, FTB has no duty to discover or inform taxpayers of income tax overpayments. (*Appeal of Cervantes* (74-SBE-029) 1974 WL 2844.)

HOLDING

The statute of limitations bars appellant's claims for refund.

DISPOSITION

FTB's actions denying appellant's claims for refund are sustained.

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Asaf Kletter
Administrative Law Judge

Date Issued: 7/21/2026

² R&TC section 19316 suspends the running of the statute of limitations during any period during which an individual taxpayer is "financially disabled," as defined in R&TC section 19316(b), if the taxpayer can establish such financial disability in accordance with the procedures and requirements specified by FTB. When an appellant alleges financial disability, appellant must provide a physician's affidavit that identifies the disability period when appellant was unable to manage their financial affairs. (*Appeal of Estate of Gillespie, supra.*) FTB provided appellant with Form 1564, Financially Disabled-Suspension of the Statute of Limitations and stated that FTB would consider any evidence appellant provided. Appellant did not respond. Therefore, OTA cannot suspend the statute of limitations because there is no evidence in the record of financial disability.