

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 250522187
K. SIMONYAN	)	
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OPINION

Representing the Parties:

For Appellant:	K. Simonyan
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For Respondent:	Nathan Hornbuckle, Graduate Legal Assistant
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For Office of Tax Appeals:	John Yusin, Attorney
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S. BROWN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, K. Simonyan (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$12,744.44 for the 2019 tax year.

Based on evidence appellant provided on appeal, respondent agreed to grant an additional refund of \$6,104.75, which reduces the amount in dispute on appeal from \$12,744.44 to \$6,639.69.

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. Appellant did not file a timely income tax return for the 2019 tax year. Respondent issued a Request for Tax Return on February 8, 2022, and a Notice of Proposed Assessment on May 6, 2022, based on an estimate of appellant's income.

2. During the period May 16, 2023, through November 26, 2024, respondent received payments totaling \$19,141.39.
3. Appellant filed a California resident income tax return for the 2019 tax year on July 11, 2024, reporting zero total tax.¹
4. Respondent treated appellant's tax return as a claim for refund. Respondent transferred \$310.11 to appellant's 2022 tax year and refunded \$5,780.18 to appellant on or about February 7, 2025.² Respondent denied the remaining refund of \$12,744.44 on the basis that the statute of limitations had expired.
5. This timely appeal followed.
6. On appeal, respondent agrees to allow an additional refund of \$6,104.75, resulting in a revised claim denial in the amount of \$6,639.69.³

DISCUSSION

The law generally requires that taxpayers file their refund claims by the later of:

- (1) four years from the date the return is filed if filed within an extension of time to file a return;
- (2) four years from the original due date of the return without regard to any extensions; or
- (3) one year from the date of overpayment. (R&TC, § 19306(a).) The statute of limitations for filing a refund claim must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Absent an exception, a taxpayer's untimely filing of a refund claim for any reason bars a refund.⁴ (*Ibid.*) This remains true even if the tax was not owed or was erroneously, illegally, or wrongfully collected. (*Ibid.*) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Ibid.*)

Appellant argues the refund claim is timely on the theory that the original due date for her tax return was October 15, 2020, and that the July 11, 2024 filing therefore falls within the four-year statute of limitations. However, respondent's postponement of the due date did not change the original due date, April 15, 2020, upon which the four-year statute of limitations for

¹ Respondent's records show that appellant did not file a 2019 return until January 31, 2025. However, on appeal, appellant provided a certified mail receipt showing a mailing date of July 11, 2024, which respondent accepts as proof of mailing of the 2019 return.

² The transferred/refunded amounts include interest of \$9.34.

³ This amount is comprised of appellant's payments of \$300.36 and \$6,655.33 made on June 30, 2023, and May 16, 2023, respectively, minus a collection cost recovery fee of \$316.00.

⁴ Financial disability due to medically determinable physical or mental impairment of the taxpayer is an example of an exception that may suspended the general statute of limitations period for refund claims. (R&TC, § 19316; *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

refund claims is based. (*Appeal of Nguyen*, 2025-OTA-333P; *Appeal of Bannon*, 2023-OTA-096P.) Thus, the applicable four-year limitations period ran from the original due date, April 15, 2020, and expired on April 15, 2024. (R&TC, §§ 18566, 19306(a).) Therefore, appellant's July 11, 2024 filing was untimely.

Respondent refunded or has agreed to refund amounts totaling \$12,185.70 that were paid within one year of the July 11, 2024 claim date.⁵ The remaining disputed amount of \$6,639.69 stems from the payments made on May 16, 2023, and June 30, 2023, both of which fall outside the one-year lookback period ending on July 11, 2023. Since those payments were not made within the applicable one-year limitations period, appellant's claim for refund of the \$6,639.69 is barred by the statute of limitations.

HOLDING

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

DISPOSITION

As respondent conceded on appeal, respondent's action is modified to allow an additional refund of \$6,104.75. Respondent's remaining claim denial in the amount of \$6,639.69 is affirmed.

Signed by:


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Suzanne B. Brown
Administrative Law Judge

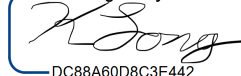
We concur:

Signed by:


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Hans Famularo
Administrative Law Judge

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Keith T. Long
Administrative Law Judge

Date Issued: 8/3/2026

⁵ Appellant made payments totaling \$12,185.70 after July 11, 2023. Respondent has either refunded or agreed to refund this amount in its entirety. Respondent credited \$310.11 to appellant's 2022 tax year, refunded \$5,780.18 to appellant, and on appeal agreed to allow an additional refund of \$6,104.75.