

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:

**K. UDINK AND
B. UDINK**) OTA Case No. 250622308
)
)
)
)
)**OPINION**

Representing the Parties:

For Appellants:

B. Udink

For Respondent:

Rachel Glass, Attorney
Nancy Parker, Attorney

For Office of Tax Appeals:

Chloe Sin, Graduate Student Assistant

K. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, K. Udink and B. Udink (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$12,457.26 for the 2016 tax year.

Office of Tax Appeals (OTA) Panel Members Hans Famularo, Asaf Kletter, and Keith T. Long held a virtual oral hearing for this matter on June 24, 2026. At the conclusion of the hearing, the record was closed, and this matter was submitted for an opinion pursuant to California Code of Regulations, title 18, section 30209(b).

ISSUE

Whether appellants' claim for refund for the 2016 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellants did not file a timely California income tax return for the 2016 tax year.
2. On May 10, 2018, FTB mailed a Demand for Tax Return (Demand) to each appellant based on information that appellants received sufficient income to trigger the filing requirement. The Demands gave appellants until June 13, 2018, to file a return, provide

- evidence that a return was already filed, or explain why no return was required. FTB did not receive a response to the Demands.
3. On July 9, 2018, FTB issued to appellant K. Udink a Notice of Proposed Assessment (NPA) for the 2016 tax year, which estimated appellant K. Udink's income based on wage information reported to the IRS. The NPA proposed to assess tax of \$4,297, a late filing penalty of \$1,074.25, a notice and demand (demand) penalty of \$2,596, a filing enforcement fee of \$84, and accrued interest.
 4. On September 24, 2018, FTB issued to appellant B. Udink an NPA for the 2016 tax year, which estimated appellant B. Udink's income based on wage information reported to the IRS. The NPA proposed to assess tax of \$1,637, a late filing penalty of \$409.25, a demand penalty of \$1,653.75, a filing enforcement fee of \$88, and accrued interest.
 5. FTB did not receive responses from appellants and the NPAs became final.
 6. FTB began collection actions and received payments totaling \$12,457.26 from appellants between January 14, 2019, and February 11, 2019, which satisfied appellants' liabilities.
 7. On March 15, 2025, appellants filed an untimely 2016 California Resident Income Tax Return. Appellants used the married filing jointly filing status and reported zero taxable income, resulting in zero total tax. FTB accepted appellants' return as filed and treated the return as a claim for refund, and abated the penalties and fees. Appellants' 2016 taxable year account reflected an overpayment of \$12,457.26.
 8. On May 5, 2025, FTB denied appellants' claim for refund based on the expiration of the statute of limitations for filing a claim for refund.
 9. This timely appeal followed.

DISCUSSION

R&TC section 19306 imposes a statute of limitations to file a claim for refund. R&TC section 19306(a) provides, in part, that no credit or refund shall 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 within the extended filing period pursuant to an extension of time to file; (2) four years from the due date prescribed for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. The taxpayer has the burden of proof in showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Cornbleth*, 2019-OTA-408P.) There is generally no reasonable cause or equitable basis to suspend the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) A taxpayer's failure to file a claim for refund within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*)

Here, there is no dispute that appellants failed to file a timely return for the 2016 tax year. Therefore, the statute of limitations began to run on the return's original due date and expired four years later on May 17, 2021.¹ (R&TC, § 19306(a).) Appellants filed their return on March 15, 2025, which is well after the four-year statute of limitations to file a claim for refund expired. Therefore, FTB is barred from refunding or crediting any overpayment for the 2016 tax year under the four-year statute of limitations.

The alternative one-year statute of limitations applies only to payments made within one year of the date the claim for refund is filed. (R&TC, § 19306(a).) Here, appellants made payments during the period January 14, 2019, through February 11, 2019. In each case, appellants' payments were made more than one year before appellants filed their claim for refund. Accordingly, appellants' claim for refund is barred by the one-year statute of limitations.

On appeal, appellants assert that their standard deduction fully paid their 2016 tax liability, and therefore, the payments made to satisfy the deficiency assessments were not ever owed. Additionally, appellants assert that paying the assessment caused the closure of their two companies and loss of employees.² However, a taxpayer's failure to file a claim for refund within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, supra.*) Further, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) Therefore, the statute of limitations cannot be suspended based on the closure of appellants' business. For the foregoing reasons, appellants' claim for refund is barred by the statute of limitations.

¹ Due to the COVID-19 pandemic, FTB was authorized under R&TC section 18572 to postpone certain tax-related deadlines. (See *Appeal of Bannon*, 2023-OTA-096P.) Pursuant to this authority, FTB considered claims for refund for the 2016 tax year to be timely if filed by May 17, 2021. (See <https://www.ftb.ca.gov/about-ftb/newsroom/2021/04.html> (accessed on 6/24/2026).)

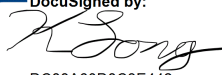
² Appellants have not provided any explanation nor any evidence to support their assertion that payment of FTB's assessment caused the closure of their businesses.

HOLDING

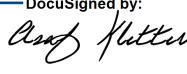
Appellants' claim for refund for the 2016 tax year is barred by the statute of limitations.

DISPOSITION

FTB's action denying appellants' claim for refund is sustained.

DocuSigned by:

DC88A60D8C3E442...
Keith T. Long
Administrative Law Judge

We concur:

DocuSigned by:

D17AEDDCAAB045B
Asaf Kletter
Administrative Law Judge

Signed by:

E407D7E70D3E41C
Hans Famularo
Administrative Law Judge

Date Issued: 8/5/2026