

In the Matter of the Appeal of:) OTA Case No. 250218694
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L. DALLA)
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Taxpayers have the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) Unsupported assertions are insufficient to meet this burden. (See *Appeal of Chen and Chi*, 2020-OTA-021P;

Appeal of Magidow (82-SBE-274) 1982 WL 11930.) Amounts withheld from real estate transactions are deemed paid on the original due date of Form 540. (See R&TC, § 19002(c).)

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 original 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).) Because appellant's 2019 refund claim was not filed until October 15, 2024, appellant's refund claim was untimely under both of the four-year statutes of limitations mentioned above.¹ Finally, because appellant's real estate withholdings were deemed "paid" on April 15, 2020 (*i.e.*, the original due date of the 2019 Form 540), her refund claim was also untimely under the one- year payment statute of limitations.

Except in very limited situations that are not present here,² the filing of an untimely claim for refund for any reason bars a refund. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) Here, appellant contends that her title company had collected the \$10,323 in nonwage withholdings and remitted them to respondent without informing her of same; appellant also states that her "original return was prepared with documents received from the title company with an incorrect amount in the withholdings section." However, appellant's arguments are in the nature of reasonable cause, and there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*)

¹ While respondent postponed the due date for filing 2019 returns due to COVID-19, that postponement does not impact the look-back period for calculating the claim for refund statute of limitations. (See *Appeal of Nguyen*, 2025-OTA-333P.) Recently enacted amendments to Internal Revenue Code (IRC) section 7508A are not relevant here because they only apply to refund claims filed after December 26, 2025. (See I.R.C., § 7508A(f).)

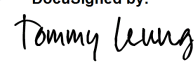
² R&TC section 19316 provides for a narrow exception for suspending the statute of limitations for claims for credit or refund when an individual taxpayer is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months. There is no evidence in the record that indicates such an exception applies to appellant for any relevant time herein.

HOLDING

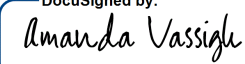
Appellant's refund claim was not timely.

DISPOSITION

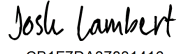
Respondent's action is sustained.

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Tommy Leung
Administrative Law Judge

We concur:
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Amanda Vassigh
Administrative Law Judge

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Josh Lambert
Administrative Law Judge

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