

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:	)	OTA Case No. 250218672
M. ALMEIDA AND	)	
B. ALMEIDA	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellants:	M. Almeida and B. Almeida
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For Respondent:	John Ly, Attorney
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For Office of Tax Appeals:	John Yusin, Attorney
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S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Almeida and B. Almeida (appellants) appeal actions by the Franchise Tax Board (respondent) denying appellants' claims for refund of \$1,972.41 and \$2,448.92 for the 2017 and 2018 tax years, respectively.

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

ISSUE

Whether appellants' claims for refund or credits for the 2017 and 2018 tax years are barred by the statute of limitations.

FACTUAL FINDINGS

2017 Tax Year

1. Appellants did not file a timely 2017 tax return, and respondent sent appellant M. Almeida a Demand for Tax Return on October 2, 2019.
2. Based upon an estimate of appellant M. Almeida's income, on December 3, 2019, respondent issued a Notice of Proposed Assessment (NPA), which proposed tax, a late-

filing penalty, a demand penalty, and related interest. As part of that NPA, respondent also imposed a filing enforcement fee of \$93.

3. Appellant M. Almeida requested additional time to respond to the NPA but did not file a return or otherwise protest the NPA, so that NPA became due and payable.
4. Appellants made payments to respondent from December 14, 2020, through December 27, 2022, totaling \$8,509.71.¹
5. Appellants filed a joint California Resident Income Tax Return for the 2017 tax year (2017 Return) on October 14, 2024, reporting income tax withholdings of \$9,437, total tax of \$11,576, a late-filing penalty of \$535, and interest of \$795.
6. Respondent processed the 2017 Return as filed, accepted the reported total tax, and after reviewing it, calculated an overpayment of \$1,972.41.² Respondent treated the 2017 Return as a claim for refund but denied any refund or offset because the 2017 Return had been filed after expiration of the statute of limitations.

2018 Tax Year

7. Appellants did not file a timely 2018 tax return and respondent sent appellant M. Almeida a Demand for Tax Return on December 14, 2020.
8. Based upon an estimate of appellant M. Almeida's income, on March 19, 2021, respondent issued an NPA, which proposed tax, a late-filing penalty, a demand penalty, and related interest. As part of that NPA, respondent also imposed a filing enforcement fee of \$97.
9. Appellants made payments to respondent from April 20, 2022, through August 28, 2023, totaling \$8,392.11, and one payment on October 14, 2024, of \$90, for total payments on the 2018 account of \$8,482.11.³

¹ Respondent asserts that that these payments totaled \$8,509.91, which appears to contradict respondent's own transcript which reflects payments totaling \$8,509.71. The \$0.20 difference does not impact resolution of this appeal and need not be considered further.

² This amount consists of withholdings of \$9,437 and payments of \$8,509.91 (see, *ante*, fn. 1), less total tax of \$11,576, late-filing penalty of \$534.75, demand penalty of \$2,796.50, filing enforcement fee of \$93.00, collection cost recovery fee of \$316, interest of \$589.25, and credit transfer to the 2022 tax year of \$69.

³ Respondent asserts that these payments totaled \$8,482.13, which appears to contradict respondent's own transcript which reflects payments totaling \$8,482.11. The difference of \$0.02 does not impact resolution of this appeal and need not be considered further.

10. Respondent later included the \$90 paid on October 14, 2024, as a credit applied to appellants' 2022 tax year.
11. Appellants filed a joint California Resident Income Tax Return for the 2018 tax year (2018 Return) on October 14, 2024, reporting income tax withholdings of \$7,516, total tax of \$9,517, a late-filing penalty of \$500, an estimated tax penalty of \$33, and interest of \$616.
12. Respondent processed the 2018 Return as filed, accepted the reported total tax and calculated an overpayment of \$2,448.92.⁴ Respondent treated the 2018 Return as a claim for refund but denied any refund or offset because the 2018 Return had been filed after expiration of the statute of limitations.
13. This timely appeal followed.

DISCUSSION

Pursuant to California Revenue and Taxation Code section 19306(a), 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 is filed, if filed within the extended filing period pursuant to an extension of time to file; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment. (R&TC, § 19306(a).) For purposes of R&TC section 19306, amounts withheld are deemed paid on the original return due date. (R&TC, § 19002(c)(1).)

Appellants did not file the 2017 Return or the 2018 Return until October 14, 2024, after the extended due dates for filing returns of October 15, 2018, and October 15, 2019, respectively, and therefore, the first four-year statute of limitations periods do not apply. (R&TC, §§ 18566, 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).) The second four-year statute of limitations periods expired four years from the original due date of the returns and expired on April 15, 2022, and April 15, 2023, respectively. (R&TC, §§ 19306(a), 18566.) Appellants filed both the 2017 Return and the 2018 Return on October 14, 2024, after the applicable limitation periods expired for both years.

Appellants made no payments toward their 2017 tax liability within one year of October 14, 2024, and made only a single \$90 payment toward their 2018 tax liability during that

⁴ Amount consists of withholdings of \$7,516, payments of \$8,482.13 (See, *ante*, fn. 3), and allowed interest of \$0.43, less total tax of \$9,517, late-filing penalty of \$500.25, demand penalty of \$2,379.25, estimated tax penalty of \$33, filing enforcement fee of \$97.00, collection cost recovery fee of \$316, interest of \$496.10, credit write-off of \$0.03, and credit transfer to the 2022 tax year of \$211.01.

one-year period, which respondent transferred to their 2022 tax year.⁵ Appellants' withholding credits are deemed paid on the original due date of the Returns, April 15, 2018, and April 15, 2019, respectively. (R&TC, § 19002(c)(1).) Accordingly, the one-year statute of limitations for claiming refunds or credits of those amounts expired on April 15, 2019, and April 15, 2020, respectively, and these deadlines passed before appellants filed their 2017 and 2018 Returns. Therefore, appellants are not entitled to a refund or additional credits under the one-year limitation periods.

Appellants argue that they are entitled to the claimed refunds because their tax liabilities for the years at issue have already been satisfied, and the barred overpayments should be applied as credits to liabilities for other tax years. The statute of limitations for filing a claim for refund or credit must be strictly construed, meaning that a taxpayer's untimely filing of a claim for any reason bars a refund or credit to a subsequent year's liability. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This remains true even if the tax was not owed or was erroneously, illegally, or wrongfully collected. (*Ibid.*) Although fixed deadlines may at times produce harsh results, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

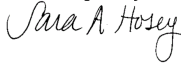
⁵ Appellants' 2017 account ledger lists a \$211.01 transfer to the 2022 tax year, which respondent asserts includes the \$90 amount overpayment. Appellants do not dispute that the transfer occurred.

HOLDING

Appellants' claims for refund for the 2017 and 2018 tax years are barred by the statute of limitations.

DISPOSITION

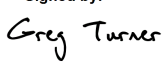
Respondent's actions are sustained.

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Sara A. Hosey
Administrative Law Judge

We concur:

Signed by:

E407D7E70D3E41C...
Hans Famularo
Administrative Law Judge

Signed by:

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Greg Turner
Administrative Law Judge

Date Issued: 7/28/2026
