

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 250421922
M. CHHIM AND	)	
K. CHHIM	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellants:	M. Chhim K. Chhim
For Respondent:	Ariana Macedo, Graduate Legal Assistant
For Office of Tax Appeals:	Andrew Jacobson, Attorney

H. FAMULARO, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Chhim and K. Chhim (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$8,548 for the 2018 tax year.

Appellants waived the right to an oral hearing; therefore, this 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 appellants' claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. On March 3, 2019, appellants filed a 2018 California Resident Income Tax Return (Original Return), on which they reported total tax of \$6,822, California income tax withheld of \$443, and tax due of \$6,379.
2. On April 11, 2019, appellants paid \$6,379 towards their 2018 income tax liability.
3. On February 15, 2025, appellants filed an amended 2018 California Resident Income Tax Return (Amended Return). On the Amended Return, appellants reduced their federal adjusted gross income by \$146,601 based on a purported "error on reporting lawsuit settlement as income." Appellants reported total tax of \$0, an earned income tax

credit (EITC) of \$1,726, and overpaid tax and a refund of \$2,169 (comprised of their California income tax withheld of \$443 and EITC of \$1,726). On the California Schedule X attached to their Amended Return, appellants requested a refund of \$8,548 (consisting of their reported refund on their Amended Return of \$2,169 and appellants' tax paid with the Original Return of \$6,379).

4. By notice dated April 14, 2025, FTB denied appellants' 2018 refund claim in the amount of \$8,548 because the statute of limitations had expired.
5. This timely appeal followed.

DISCUSSION

The R&TC allows taxpayers to file refund claims by 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).) Taxpayers have the burden of proof to show that the claim for refund is timely and that a refund should be granted. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Because appellants filed their Original Return before the statutory extension period of the original return due date plus six months, the first four-year statute of limitations does not apply. (R&TC, §§ 18566, 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).) With respect to the second four-year statute of limitations, appellants filed their Amended Return on February 15, 2025, more than four years after the due date of their Original Return on April 15, 2019, and therefore, their claim for refund is barred by the second four-year statute of limitations. (R&TC, §§ 19306(a), 18566.)

Pursuant to the one-year limitations period, appellants had until April 15, 2020, one year after the April 15, 2019 deemed payment date of their withholdings, tax payment, and EITC claimed on their Amended Return, to file a timely claim for refund for those amounts. (R&TC, §§ 19066(a)-(b), 19002(d)(2); Cal. Code Regs., tit. 18, § 19002(d)(1); *Appeal of Sotelo*, 2025-OTA-035P.) Appellants' Amended Return was filed on February 15, 2025, which is more than one year after April 15, 2019. Therefore, appellants' claim for refund of \$8,548 (comprised of their California income tax withheld of \$443, payment of \$6,379, and EITC of \$1,726) is barred by the one-year statute of limitations.

Appellants do not dispute they filed their Amended Return after the applicable refund statute of limitations. Rather, they assert that they erroneously paid income tax on the settlement proceeds they received from a class action lawsuit based on the incorrect advice of

their tax return preparer. However, the language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P., supra.*) Absent a statutory exception, a taxpayer's untimely filing of a claim for refund for any reason bars a refund even when the tax was not owed in the first place. (*Ibid.*) Appellants' argument that they received incorrect income tax advice is a reasonable cause type argument that does not provide relief because there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) Therefore, appellants' claim for refund is barred by the statute of limitations.

HOLDING

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

DISPOSITION

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

Signed by:

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Hans Famularo
Administrative Law Judge

We concur:

Signed by:

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Seth Elsom
Hearing Officer

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Keith T. Long
Administrative Law Judge

Date Issued: 8/7/2026