

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

|                                    |   |                        |
|------------------------------------|---|------------------------|
| In the Matter of the Appeal of:    | ) | OTA Case No. 250923127 |
| <b>R. LONG AND</b>                 | ) |                        |
| <b>R. LONG (DEC'D)<sup>1</sup></b> | ) |                        |
|                                    | ) |                        |
|                                    | ) |                        |
|                                    | ) |                        |

---

**OPINION**

Representing the Parties:

|                            |                                      |
|----------------------------|--------------------------------------|
| For Appellants:            | R. Long                              |
| For Respondent:            | Vicki M. Leclerc, Program Specialist |
| For Office of Tax Appeals: | Neha Garner, Attorney                |

H. FAMULARO, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Long and R. Long (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$4,146.46 for the 2017 tax year.

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

**FACTUAL FINDINGS**

1. Appellants did not timely file a 2017 California income tax return.
2. After requesting but not receiving a return, FTB issued a Notice of Proposed Assessment (NPA), which proposed tax based on an estimate of income, plus a late-filing penalty and applicable interest for the 2017 tax year.

---

<sup>1</sup> Appellants' request for appeal indicates that appellant R. Long passed away after issuance of the notice denying appellants' claim for refund.

3. On January 27, 2020, appellants untimely filed a 2017 California tax return, on which they reported tax due of \$3,360, and submitted payment of that amount.
4. FTB accepted appellants' return as filed and issued a Notice of Tax Return Change - Revised Balance, which provided that FTB had imposed a late-filing penalty of \$840 and interest of \$385.10, totaling \$1,225.10. On April 13, 2020, appellants submitted payment of \$1,225.10.
5. On April 7, 2025, appellants untimely filed an amended 2017 tax return, on which they reported tax due of \$267 and a refund of \$3,101. FTB accepted the amended 2017 tax return and treated it as a claim for refund of \$4,146.46.
6. FTB subsequently sent appellants a notice denying appellants' claim for refund because the statute of limitations had expired.
7. This timely appeal followed.

#### DISCUSSION

R&TC section 19306(a) provides that 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 due date for filing a return without regard to any extensions; or (3) one year from the date of overpayment. The taxpayer has the burden of proving entitlement to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellants do not dispute that they filed their refund claim for the 2017 tax year after the statute of limitations expired. Instead, appellants allege that they inadvertently paid more than the tax due and that the statute of limitations should not bar refund claims from elderly and disenfranchised taxpayers.

The statute of limitations for filing a refund claim must be strictly construed, meaning that a taxpayer's untimely filing of a refund claim for any reason bars a refund. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even if the tax was not owed in the first place or was erroneously, illegally, or wrongfully collected. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*) While OTA is sympathetic to appellants' situation, the relief appellants seek cannot be provided. (See *Appeal of Estate of Gillespie, supra.*)

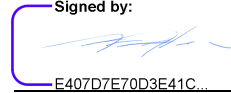
HOLDING

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

DISPOSITION

FTB's action is sustained

Signed by:

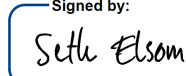


E407D7E70D3E41C...

Hans Famularo  
Administrative Law Judge

We concur:

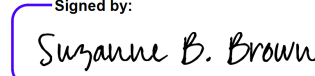
Signed by:



C04CD432E2264FD...

Seth Elsom  
Hearing Officer

Signed by:



47F46ABE80E34D0...

Suzanne B. Brown  
Administrative Law Judge

Date Issued: 7/22/2026