

In the Matter of the Appeal of:) OTA Case No. 250923142
)
S. EVARISTO AND)
A. HASEGAWA)
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¹ On appeal, FTB concedes that appellants' claim for the 2020 tax year was timely and agrees to allow the claim for refund in full. Accordingly, only the 2019 tax year is at issue.

3. FTB later issued appellant S. Evaristo a Notice of Proposed Assessment, which estimated appellant S. Evaristo's income based on mortgage interest paid and proposed to assess tax, a late filing penalty, and interest.
4. When no response was received, FTB commenced collection action and received a payment of \$5,394.31 on December 9, 2022.
5. On May 15, 2025, appellants untimely filed their joint 2019 California Resident Income Tax Return, reporting total tax of \$300 and an overpayment of \$11,477,² which they requested to be refunded to them. On the first page of the return, appellants claimed emergency tax relief for severe winter storms which occurred in 2024.³
6. FTB accepted the return as filed, which FTB treated as appellants' claim for refund. FTB denied the claim for refund because it was filed after the statute of limitations expired.
7. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed unless a claim for refund is filed within: (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 for the year at issue (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellants do not dispute that they untimely filed their 2019 return; instead, they contend that extraordinary circumstances and severe hardships, including the COVID-19 pandemic, federally declared disasters for Los Angeles County, severe business hardship, several missing tax forms, and an unresponsive bookkeeper, prevented appellants from timely filing.⁴

FTB has the authority to grant state of emergency postponement for tax-related acts under R&TC section 18572(b), which adopts Internal Revenue Code (IRC) section 7508A, when

² The refund of \$11,477 was comprised of total payments of \$11,777 including the estimated tax payment of \$2,000, the payment of \$5,394.31, and income tax withholding of \$4,383, minus \$300 of tax.

³ Appellants wrote "FEMA-4769-DR: 2024 Winter Storms", which refers to a federally declared disaster for severe winter storms in California. (See <https://www.fema.gov/disaster/4769>.)

⁴ Appellants' representative states that her office advised appellants not to file their return until appellants received reliable information. However, taxpayers have an obligation to file timely returns with the best available information, and then to subsequently file an amended return, if necessary. (See *Appeal of Xie*, 2018-OTA-076P.)

the Governor declares a state of emergency.⁵ However, FTB did not announce any tax relief for severe winter storms in 2024 based on the Governor's proclamation of a state of emergency.

The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) A taxpayer's untimely filing of a claim bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) Although the results of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*) OTA appreciates appellants' perspective, but it lacks the legal authority to grant an untimely refund claim. (*Appeal of Estate of Gillespie, supra.*)

HOLDING

The statute of limitations bars appellants' claim for refund for the 2019 tax year.

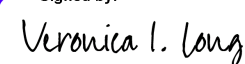
DISPOSITION

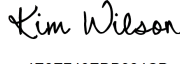
FTB's action is modified to allow appellants' claim for refund of \$8,390.14, as conceded by FTB on appeal, for the 2020 tax year. FTB's action denying appellants' claim for refund for the 2019 tax year is sustained.

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Asaf Kletter
Administrative Law Judge

We concur:

Signed by:

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Veronica I. Long
Administrative Law Judge

Signed by:

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Kim Wilson
Hearing Officer

Date Issued: 8/13/2026

⁵ R&TC 18572 modifies IRC section 7508A to provide that R&TC section 18572 postponements apply to a taxpayer affected by a state of emergency declared by the Governor of California, as opposed to a federally declared disaster.