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OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **H. GONZALEZ**	)	OTA Case No. 241118037

OPINION

Representing the Parties:

For Appellant: H. Gonzalez

For Respondent: Ganeet Atwaal, Legal Analyst

H. LE, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, H. Gonzalez (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of $3,717.60 for the 2018 tax year.

Appellant 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 appellant timely filed a claim for refund for the 2018 tax year in the amount of $3,717.60.

FACTUAL FINDINGS

1. Appellant did not timely file a 2018 tax return.
2. FTB sent appellant a Demand for Tax Return requesting that appellant respond by filing the return or explaining why appellant did not have a filing requirement. Appellant did not respond to the demand.
3. Later, FTB sent appellant a Notice of Proposed Assessment (NPA) proposing tax based on an estimate of appellant's income and imposing penalties, a fee, and interest.
4. The NPA became final after appellant failed to protest the proposed assessment.

5. FTB sent appellant a Notice of State Income Tax Due and engaged in collection action. Between May 13, 2023, through August 12, 2024, FTB received total payments of $1,988.38.
6. On May 13, 2024, appellant untimely filed a 2018 California tax return and claimed withholding credits.
7. FTB processed appellant's return, treated it as a claim for refund, and calculated a total overpayment of $5,705.98.
8. FTB credited appellant $1,988.38, plus interest of $36.36, that was allowed as a credit for the 2019 tax year.
9. FTB issued a notice that denied the remaining overpayment of $3,717.60 ($5,705.98 - $1,988.38) on the basis that the statute of limitations had expired.
10. Appellant then filed this timely appeal.

DISCUSSION

R&TC section 19306 sets forth the statute of limitations to file a claim for refund. R&TC section 19306(a) provides, in part, that 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 was filed, if the return was filed within the extended filing period pursuant to R&TC section 18567 or 18604 (whichever is applicable); (2) four years from the due date prescribed for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. The taxpayer has the burden of proof in showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

Since appellant did not file a timely return, the applicable statute of limitations in this appeal is the later of four years from the last day prescribed for filing the return (without regard to any extension of time to file) or one year after the date of the overpayment. (R&TC, § 19306(a).) For the 2018 tax year, the four-year statute of limitations period expired on April 15, 2023. Appellant did not file a claim for refund until May 13, 2024. Appellant's claim for refund for the 2018 tax year under this provision is therefore barred under the four-year statute of limitations period.

The one-year statute of limitations applies to payments made within one year of the date the claim for refund is filed. (R&TC, § 19306(a).) Appellant made payments totaling $1,988.38 beginning on May 13, 2023, one year before appellant filed his 2018 return on May 13, 2024. This amount, plus interest, was credited by FTB to appellant. The remainder of the

overpayments were either made before May 13, 2023, or were tax withholding payments which are deemed paid on the due date of the 2018 tax return of April 15, 2019. (R&TC, § 19002(c)(1).) Since appellant filed his claim for refund more than one year after these payments were made, his remaining claim for refund of $3,717.60 is barred under the one-year statute of limitations.

Appellant makes equitable arguments for the refund claim. There is no reasonable cause or equitable basis to suspend the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Accordingly, the Office of Tax Appeals concludes that the statute of limitations bars FTB from refunding or crediting any additional amounts from the 2018 tax year.

HOLDING

Appellant did not timely file a claim for refund for the 2018 tax year in the amount of $3,717.60.

DISPOSITION

FTB's action denying appellant's claim for refund of $3,717.60 is sustained.

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Huy "Mike" Le
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Huy "Mike" Le
Administrative Law Judge

We concur:

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Amanda Vassigh
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Amanda Vassigh
Administrative Law Judge

DocuSigned by:
K Long
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Keith T. Long
Administrative Law Judge

Date Issued: 8/26/2026