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OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **R. BOSCH AND** **M. BOSCH**	)	OTA Case No. 251023655

OPINION

Representing the Parties:

For Appellants: Lori Friedman, CPA

For Respondent: Arathi Ramalingam, Attorney

For Office of Tax Appeals: Earl Takeuchi, Graduate Student Assistant

A. KLETTER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) 19324, R. Bosch and M. Bosch (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of $8,598 for the 2020 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' refund claim for the 2020 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. On March 16, 2021, appellants timely filed their 2020 California Nonresident or Part-Year Resident Income Tax Return, with a filing status of married filing jointly. Appellants reported total tax of $16,731, California estimated tax and other payments of $14,380, and tax due of $2,351, which appellants remitted timely.
2. FTB accepted the tax return as filed from appellants.
3. On July 28, 2025, FTB received appellants' amended 2020 California Nonresident or Part-Year Resident Income Tax Return (amended return). Appellants and their tax

preparer signed the amended return and dated their signatures July 23, 2025, and July 20, 2025, respectively. The amended return reflected an overpayment of $8,598.[1]

4. FTB accepted the amended return as filed and treated it as a claim for refund of $8,598.
5. On August 13, 2025, FTB issued appellants a Statute of Limitations notice denying appellants' claim for refund.
6. Appellants timely appealed.

DISCUSSION

The law generally requires that taxpayers file their refund claims by the later of: (1) four years from the date the return is filed, if filed on or before the extended due date; (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).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.,* 2020-OTA-144P.) Except as otherwise specifically provided by law, the burden of proof requires proof by a preponderance of the evidence. (Cal. Code. Regs., tit. 18, § 30219(b), *Appeal of Sotelo*, 2025-OTA-035P.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P*, *supra*.) Absent an exception, a taxpayer's untimely filing of a claim bars a refund. (*Ibid*.) There is generally no reasonable cause or equitable basis for suspending the statute of limitations, and while the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid*.)

In response to the COVID-19 pandemic, pursuant to R&TC section 18572(b), FTB postponed the filing due date for the 2020 tax year to May 17, 2021; however, the postponement did not change the original due date upon which the four-year statute of limitations to claim a refund is based. (*Appeal of Nguyen*, 2025-OTA-333P.) Thus, the expiration date of the four-year statute of limitations remained April 15, 2025.

Appellants' return was timely filed on March 16, 2021, and therefore, the second four-year statute of limitations from the due date of the return applies here.[2] The original due date was April 15, 2021, and four years later was April 15, 2025. (See R&TC, § 18566.) Here, appellants contend that the amended return was timely under the four-year statute of limitations

[1] Appellants' amended return claimed an Other State Tax Credit of $8,850, and adjusted the total tax to $8,133, which resulted in an overpayment of $6,247. On California Schedule X, appellants applied their original return payment of $2,351 for a total overpayment of $8,598.

[2] Appellants' return was not filed on extension and the one-year statute of limitations expired on April 15, 2022. (R&TC, §§ 18567(a)(1), 19306, 19002(c); Cal. Code Regs., tit. 18, § 18567(a).)

because the amended return was mailed to FTB during early April of 2025. Appellants allege that the amended return was correctly addressed, stamped, and mailed. Appellants also allege that they are unable to locate their mailing receipt because FTB took four months to issue its Statute of Limitations notice.

Documents which are mailed to FTB using the United States Postal Service (USPS) or a bona fide commercial delivery service, when properly addressed with postage prepaid, are deemed filed on: (1) the date shown by the cancellation mark stamped on the envelope containing the document; or (2) the date of mailing, provided there is sufficient proof to establish that the document was mailed at an earlier time. (Gov. Code, § 11003.) Thus, regardless of when FTB received the document, a showing by appellants that the amended return was mailed to FTB by April 15, 2025, under the above conditions, would mean that the amended return was filed within the four-year statute of limitations for making a refund claim.

Appellants, however, do not provide any proof of mailing, such as a USPS certified or registered mailing receipt. Appellants assert, without evidence, that their amended return was timely because it was mailed in early April. Appellants further contend that FTB has the amended return's mailing envelope and postmark, and argue that the time that elapsed between April 15, 2025, and FTB's receipt of the amended return is evidence of its timeliness. However, appellants' amended return, their signatures - and their tax preparer's signature - are dated in July 2025, and their assertions are inconsistent with the record. Because appellants do not provide any proof of mailing, OTA finds that the amended return was filed on the date FTB received it, July 28, 2025. Therefore, appellants' refund claim was untimely.

HOLDING

Appellants' refund claim for the 2020 tax year is barred by the statute of limitations.

DISPOSITION

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

DocuSigned by:
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Asaf Kletter
Administrative Law Judge

We concur:

Signed by:
47E45ABE89E34D0...
Suzanne B. Brown
Administrative Law Judge

Signed by:
E407D7E70D3E41C...
Hans Famularo
Administrative Law Judge

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