

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

In the Matter of the Appeal of:  
**A. WILLIS**

) OTA Case No. 20015776  
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**OPINION**

Representing the Parties:

For Appellant: A. Willis

For Respondent: Gi Jung Nam, Tax Counsel

A. ROSAS, Administrative Law Judge: Under Revenue and Taxation Code (R&TC) section 19324, appellant A. Willis appeals respondent Franchise Tax Board’s action in denying appellant’s claim for refund of \$1,847 for tax year 2013. Appellant waived the right to an oral hearing; therefore, we decide this matter based on the written record.

**ISSUE**

Whether appellant was “financially disabled” such that the statute of limitations was tolled and his claim for refund was timely.

**FACTUAL FINDINGS**

1. Appellant filed a 2013 California tax return on January 2, 2019, claiming an overpayment of \$1,847. Appellant requested that respondent apply this overpayment to the 2014 tax year, but respondent did not do so because the statute of limitations to claim a credit or refund had expired. Appellant then submitted another claim for refund dated August 16, 2019, which respondent again denied.
2. Appellant supplemented the claim for refund and included a letter from appellant’s psychiatrist dated September 16, 2019, explaining that appellant suffered from obsessive compulsive disorder for the last eight to ten years. The psychiatrist wrote that he believed appellant “meets criteria for financial disability (Mental disability that results in the inability to manage financial affairs lasting 12 months or longer).”

3. Appellant eventually filed this timely appeal.

### DISCUSSION

The general statute of limitations to file a claim for refund is set forth in R&TC section 19306. Here, the applicable statute of limitations expired on April 15, 2018; that is, “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).” (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P, citing 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 Estate of Gillespie*, 2018-OTA-052P (*Gillespie*).) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*U.S. v. Brockamp* (1997) 519 U.S. 347 [no intent to apply equitable tolling in a federal tax statute of limitations].) Appellant agrees that, in general, the statute of limitations bars his claim for refund because he did not file the 2013 California tax return until January 2, 2019.

However, appellant argues that he was “financially disabled” within the meaning of R&TC section 19316.<sup>1</sup> That section provides that the statute of limitations “shall be suspended during any period during which that individual taxpayer is ‘financially disabled’ . . . .” (R&TC, § 19316(a).) A “taxpayer is ‘financially disabled’ if that individual taxpayer is unable to manage his or her financial affairs by reason of a medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period of not less than 12 months.” (R&TC, § 19316(b)(1).)<sup>2</sup>

“When an appellant alleges financial disability to suspend and thus extend the limitations period to file a timely claim for refund, a physician’s affidavit must be provided that identifies the disability period when appellant was unable to manage [appellant’s] financial affairs.” (*Gillespie, supra*.) “The financial disability of an individual taxpayer shall be established in accordance with those procedures and requirements specified by the Franchise Tax Board.” (R&TC, § 19316(a).) Those procedures and requirements specified by respondent include the use of FTB Form 1564, which requires, in part, an affidavit from a physician signed under

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<sup>1</sup> Although appellant makes other arguments, we find that they are irrelevant and without merit. Thus, we focus solely on appellant’s relevant argument about his claimed financial disability.

<sup>2</sup> In addition, individuals “shall not be considered to be ‘financially disabled’ for any period during which that individual’s spouse or any other person is legally authorized to act on that individual’s behalf in financial matters.” (R&TC, § 19316(b)(2).) Neither party addressed this second prong. There is no evidence as to whether a spouse or any other person was legally authorized to act on appellant’s behalf in financial matters. However, based on the evidence in the record, it appears appellant himself prepared and filed an individual tax return, which shows he acted on his own behalf with respect to financial matters.

penalty of perjury, stating to the best of the physician’s knowledge “the specific period during which the patient was prevented from managing his or her financial affairs.”

Appellant provided a letter from a psychiatrist that explained the psychiatrist’s belief that appellant “meets criteria for financial disability . . . .” We agree with respondent that, based on this letter, it appears appellant may have had a financial disability. However, this letter in and of itself does not satisfy respondent’s procedures and requirements for tolling of the statute of limitations based on a financial disability. Specifically, appellant never submitted the required FTB Form 1564, and in any event, the psychiatrist’s letter did not include information requested in FTB Form 1564, was not signed under penalty of perjury, and did not state the specific period during which appellant was prevented from managing his financial affairs.

We acknowledge and understand that appellant suffered from obsessive compulsive disorder. However, by not submitting FTB Form 1564, appellant did not satisfy the procedures and requirements specified by respondent. With its opening brief, respondent provided a copy of FTB Form 1564 and encouraged appellant to complete the form and submit it for respondent’s review. It appears appellant did not submit the form. Therefore, appellant did not establish that financial disability tolled the statute of limitations for the filing of appellant’s claim for refund.

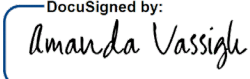
#### HOLDING

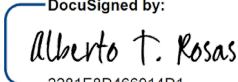
Appellant’s claim for refund for tax year 2013 is barred by the statute of limitations.

#### DISPOSITION

We sustain respondent’s denial of appellant’s claim for refund for tax year 2013.

We concur:

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Amanda A. Vassigh  
Administrative Law Judge

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Alberto T. Rosas  
Administrative Law Judge

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Keith T. Long  
Administrative Law Judge

Date Issued: 10/1/2020