

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:

A. LAM AND
T. LAM

) OTA Case No. 21108800
)
)
)
)
)

OPINION

Representing the Parties:

For Appellants: A. Lam and T. Lam

For Respondent: Ellen L. Swain, Tax Counsel IV

O. AKOPCHIKYAN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, A. Lam and T. Lam (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants’ claim for refund of \$9,112.35 for tax year 2016.

Appellants waived the right to an oral hearing; therefore, this appeal is decided on the written record.

ISSUE

Whether appellants’ claim for refund for tax year 2016 is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellants untimely filed their 2016 California tax return on June 7, 2021.
2. FTB acknowledged appellants’ 2016 California tax return as a claim for refund in the amount of \$9,112.35, which represents the total amount of tax payments remitted between April 15, 2016, and October 16, 2019, for tax year 2016.¹
3. FTB denied appellants’ claim for refund on the basis that the claim was barred by the statute of limitations.

¹ Appellants remitted a total of \$9,429.35 for tax year 2016. However, FTB acknowledged the claim for refund as \$9,112.35 because FTB reduced appellants’ 2016 tax payments by a collection cost fee of \$317.

4. Appellants timely filed this appeal.

DISCUSSION

The statute of limitations for filing a claim for refund is set forth in R&TC section 19306. The statute of limitations provides, in relevant part, that no credit or refund may be allowed unless a refund claim 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 date the return was due, determined without regard to any extension of time to file; or (3) one year from the date of overpayment. (R&TC, § 19306(a).) Taxpayers have the burden of proving that the claim for refund is timely and that they are entitled to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

We conclude appellants' refund claim is barred by the statute of limitations because it was not filed within the time limitations set forth in R&TC section 19306. Appellants filed their 2016 California tax return, which was considered their refund claim, on June 7, 2021. The first statute of limitations period is not applicable because appellants did not file their 2016 California tax return pursuant to a valid extension of time to file. The second statute of limitations period expired on April 15, 2021, because appellants' 2016 California tax return was originally due on April 15, 2017. (R&TC, § 18566.) Lastly, the third statute of limitations period expired on October 16, 2020, because appellants remitted the last payment for tax year 2016 on October 16, 2019.

In their request for appeal, appellants contend that they faced financial obligations and health issues. While the time for filing a claim for refund may be extended if a taxpayer is "financially disabled," as defined in R&TC section 19316, there is nothing in the record to indicate whether and when appellants were financially disabled.

A taxpayer is considered financially disabled if: (1) the "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," and (2) there is no spouse or other legally authorized person to act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b)(1)-(2).) A taxpayer has the burden of establishing a financial disability by a preponderance of the evidence. (Cal. Code Regs., tit. 18, § 30219(a) & (c).) To demonstrate the existence of a financial disability, a

taxpayer must submit a signed affidavit from a physician that explains the nature and duration of the taxpayer's physical or mental impairments. (*Appeal of Estate of Gillespie, supra.*)

We find that appellants have not met their burden of establishing that they were financially disabled by a preponderance of the evidence. Additionally, there is no equitable basis under California law for suspending the statute of limitations. (*Appeal of Estate of Gillespie, supra.*) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P., 2020-OTA-144P.*) Accordingly, appellants' refund claim for tax year 2016 is barred because it was filed after the statute of limitations expired.

HOLDING

Appellants’ claim for refund for tax year 2016 is barred by the statute of limitations.

DISPOSITION

FTB’s denial of appellants’ claim for refund for tax year 2016 is sustained.

DocuSigned by:

Ovsep Akopchikyan

88F35E2A835348D
Ovsep Akopchikyan

Administrative Law Judge

We concur:

DocuSigned by:

Huy "Mike" Le

A11783ADD49442B...
Huy "Mike" Le

Administrative Law Judge

DocuSigned by:

Natasha Ralston

DE5000E566FD40F...
Natasha Ralston

Administrative Law Judge

Date Issued: 3/29/2022