

FACTUAL FINDINGS

1. Appellant did not file timely returns for tax years 2014, 2015, and 2016.
2. Prior to October 11, 2021, appellant died.²
3. On October 11, 2021, California nonresident or part-year resident income tax returns for 2014, 2015, and 2016 were filed for appellant by appellant's representative. Appellant's returns reported income tax withholding credits of \$910 for 2014, \$908 for 2015, and \$2,212 for 2016. After subtracting the tax for each year, appellant claimed overpayments totaling \$2,103. FTB treated appellant's returns as claims for refund.
4. On November 10, 2021, FTB denied appellant's claims for refund. FTB explained that appellant's claims were barred by the statute of limitations.
5. This timely appeal followed.

DISCUSSION

Issue: Whether appellant's claims for refund for 2014, 2015, and 2016 are barred by the statute of limitations.

The statute of limitations provides, in relevant part, that no credit or refund may 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 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).) A taxpayer has 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.)

There is no equitable basis under California law that could or would suspend the statute of limitations in this case. (*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.)

Here there is no dispute that appellant failed to file timely returns pursuant to an extension of time to file. Appellant's claims for refund for 2014, 2015, and 2016 were filed on October 11, 2021, which is more than one year after the claimed overpayment and more than

² Appellant's death is not in dispute. However, the date of appellant's death was not disclosed during this appeal.

four years after the due date of each return.³ As such, appellant's claims for refund are barred by the statute of limitations unless an exception applies.

The time for filing a claim for refund may be extended if a taxpayer is "financially disabled," as defined in R&TC section 19316. 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 Gillespie, supra.*) Additionally, according to form FTB 1564, FTB will follow a federal determination of financial disability made by the IRS.

Appellant's representative asserts that appellant was unable to file returns following the onset of dementia in 2013. Appellant's representative contends that appellant did not keep tax records because of her illness. Appellant's representative states that, after appellant's death, a tax preparer was hired and returns were filed. However, appellant's representative has not provided any evidence in support of these contentions; appellant's representative has not provided a signed affidavit from a physician that explains the nature and duration of appellant's mental impairment, nor has appellant's representative provided evidence of a federal determination of financial disability made by the IRS.⁴ Appellant's representative has not met the burden of proof. Accordingly, OTA finds that appellant's claims for refund for 2014, 2015, and 2016 are barred by the statute of limitations.

³ We note that FTB extended the statute of limitations to file a claim for refund for the 2016 tax year from April 15, 2021, to May 17, 2021. This extension does not affect the outcome of this appeal.


⁴ FTB's opening brief afforded appellant time to provide such documentation. However, OTA did not receive any response from appellant's representative.

HOLDING


Appellant’s claims for refund for 2014, 2015, and 2016 are barred by the statute of limitations.

DISPOSITION

FTB’s denial of appellant’s claims for refund for 2014, 2015, and 2016 is sustained.

DocuSigned by:

DC88A00D6C3E442...
Keith T. Long
Administrative Law Judge

We concur:

DocuSigned by:

7B17E958B7C14AC...
Amanda Vassigh
Administrative Law Judge

DocuSigned by:

7B28A07A7E0A43D...
Daniel K. Cho.
Administrative Law Judge

Date Issued: 8/2/2022