

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:

R. TRUTNA

) OTA Case No. 21108825
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OPINION

Representing the Parties:

For Appellant:

R. Trutna

For Respondent:

Joel Smith, Tax Counsel III

For Office of Tax Appeals:

Steven Kim, Tax Counsel III

A. WONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Trutna (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$2,531 for the 2011 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single administrative law judge. (Cal. Code Regs., tit. 18, § 30209.1.)

Office of Tax Appeals (OTA) Administrative Law Judge Andrew Wong held an oral hearing for this matter electronically on July 26, 2022. At the conclusion of the hearing, the record was closed and this matter was submitted for an opinion.

ISSUE

Whether appellant’s claim for refund for the 2011 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. On December 2, 2012, appellant filed a California Resident Income Tax Return for the 2011 tax year.

2. On January 15, 2021, appellant filed an amended California Resident Income Tax Return reporting an overpayment of \$4,454. FTB accepted the amended return and considered it a claim for refund.
3. On July 19, 2021, FTB issued to appellant a notice indicating that appellant had an overpayment of \$2,531¹ for the 2011 tax year, but denying the claim for refund because it was not filed within the statute of limitations period.
4. This timely appeal followed.

DISCUSSION

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 timely 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. (R&TC, § 19306(a).) Under certain circumstances, a return filed within the statute of limitations period set forth in R&TC section 19306(a), which shows a credit for tax withholdings or estimated tax payments, may be treated as a timely refund claim for the excess amount. (R&TC, § 19307.) For purposes of R&TC section 19306, any tax withheld for a tax year shall be deemed as paid on the due date of the return for that tax year. (See R&TC, § 19002.)

In a claim for refund, the taxpayer has the burden of proof to show that a refund is warranted and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P; *Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The burden of proof requires proof by a preponderance of the evidence, unless there is an exception provided by law. (Cal. Code Regs., tit. 18, § 30219(c).) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, *supra*.) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*) If a taxpayer fails to file a claim for refund within the statute of limitations, the taxpayer is barred from later filing a claim for refund, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) While

¹ This amount is based on reported tax due of \$5,804 and withholding credits of \$8,335. Appellant also reported an estimated tax payment of \$1,923 on his amended return, but FTB's records do not show such a payment for the 2011 tax year.

fixed deadlines may appear harsh and arbitrary, the occasional harshness is redeemed by the clarity imparted on the legal obligation. (*Ibid.*)

Here, appellant did not timely file his 2011 return. As such, for the 2011 tax year, the four-year statute of limitations period to timely file a claim for refund expired on April 15, 2016. Additionally, the withholding credit for the 2011 tax year was deemed paid on April 15, 2012. The one-year statute of limitations period to timely file a claim for refund for any overpayment resulting from the withholding credit was April 15, 2013. Appellant filed the claim for refund on January 5, 2021, outside of both the four-year and one-year statute of limitations periods.

For individual taxpayers, the running of the statute of limitations period may be suspended during any period in which the taxpayer is “financially disabled.” (R&TC, § 19316(a).) An individual taxpayer is “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 any other person legally authorized to act on that individual’s behalf in financial matters. (R&TC, § 19316(b).) To demonstrate financial disability, the taxpayer must provide a physician’s affidavit explaining the nature of the taxpayer’s impairment and identifying the period during which the taxpayer was unable to manage his or her financial affairs. (See *Appeal of Estate of Gillespie, supra.*)

Appellant contends that he suffered from various medical conditions that caused extreme fatigue and affected his ability to manage his records and prepare his tax returns. Appellant argues that his tax returns were complex and required multiple schedules. However, appellant argues that he filed simple returns without claiming all his deductions for several years (including the 2011 tax year at issue) because he lacked the time and energy due to his medical conditions. Appellant submitted some medical records documenting his medical conditions.

Here, neither OTA nor FTB dispute appellant’s medical conditions. However, appellant has not provided a physician’s affidavit explaining the nature and duration of appellant’s impairments, and as such, has not shown that such impairments were terminal or expected to last for a continuous period of 12 months or more. Furthermore, the four-year statute of limitations period must have been suspended for a long enough time between April 15, 2012, and January 15, 2021, to render appellant’s January 15, 2021 claim for refund timely, and appellant must show that he was financially disabled during that entire time. However, the record shows that


appellant continued to file returns for other tax years during that time (e.g., on November 18, 2013, November 18, 2014, and December 1, 2015), which strongly suggests that he had the capacity to manage his financial affairs for at least a portion of that period. Accordingly, OTA finds that appellant has not met his burden to establish any financial disability warranting the suspension of the statute of limitations.

HOLDING

Appellant’s claim for refund for the 2011 tax year is barred by the statute of limitations.

DISPOSITION

FTB’s action is sustained.

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Andrew Wong
Administrative Law Judge

Date Issued: 9/6/2022