

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Consolidated Appeals of:        ) OTA Case Nos. 21119049, 22019543  
S. PADRON-ALLINSON                                        )  
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**OPINION**

Representing the Parties:

For Appellant:    Ri Yu,  
  Tax Appeals Assistance Program

For Respondent:   Camille Dixon, Tax Counsel

O. AKOPCHIKYAN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, S. Padron-Allinson (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant’s claims for refund of \$2,315, \$2,421, and \$2,564 for the 2014, 2015, and 2016 tax years, respectively.

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 Ovsep Akopchikyan held an electronic oral hearing for this appeal on October 14, 2022. The record was closed and the appeal was submitted for a decision at the conclusion of the hearing.

**ISSUE**

Whether appellant’s refund claims for the 2014, 2015, and 2016 tax years are barred by the statute of limitations.

**FACTUAL FINDINGS**

1. Appellant untimely filed her 2014, 2015, and 2016 California tax returns on July 15, 2021, and reported overpayments for each tax year. The overpayments are state income tax withholding credits.

2. FTB treated the returns as refund claims in the amount of the overpayments, and denied the claims on the basis that they are barred by the statute of limitations.
3. Appellant filed a timely appeal for each tax year.<sup>1</sup>

### DISCUSSION

The statute of limitations to file a refund claim 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 refund claims are timely and that they are entitled to a refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Appellant's refund claims are barred by the statute of limitations because they were not filed within the time limitations set forth in R&TC section 19306. The first statute of limitations period is not applicable because appellant did not timely file her 2014 through 2016 California tax returns. The second and third statute of limitations period expired on April 15, 2019, for the 2014 tax year; on April 15, 2020, for the 2015 tax year; and on May 17, 2021, for the 2016 tax year.<sup>2</sup> This is because (1) individual tax returns are due April 15 of the following year, and (2) withholding taxes are deemed paid on the original due date of that year's return. (R&TC, §§ 18566, 19002(c)(1).) Appellant filed all three claims on July 15, 2021. Therefore, the claims are barred by the statute of limitations.

The only basis for suspending the statute of limitations is if a taxpayer establishes that he or she was "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

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<sup>1</sup> Appellant filed one appeal for the 2015 tax year and another appeal for the 2014 and 2016 tax years, which were consolidated by OTA.

<sup>2</sup> For the 2016 tax year, the statute of limitations expired on April 15, 2021. However, due to the COVID-19 pandemic, FTB treated refund claims filed by May 17, 2021, as timely. (See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html>.)

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 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.*) To suspend the statute of limitations, the period of financial disability must occur during the limitations period. (*Ibid.*)

Appellant credibly testified at the hearing that she filed her returns late because she endured many hardships due to personal difficulties and family illness during the tax years. However, those hardships are not a basis for extending the statute of limitations. (*Appeal of Estate of Gillespie, supra.*) While OTA is sympathetic to appellant’s circumstances, California law does not permit OTA to grant relief on that basis.

#### HOLDING

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

#### DISPOSITION

FTB’s actions are sustained.

DocuSigned by:

*Ovsep Akopchikyan*

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Ovsep Akopchikyan  
Administrative Law Judge

Date Issued: 12/23/2022