

4. FTB issued a Notice of Proposed Assessment (NPA) and proposed to assess tax of \$9,518.00, a late filing penalty of \$2,379.50, and applicable interest. However, appellant-husband did not respond to the NPA and the NPA went final. Thereafter, FTB initiated collection action.
5. On September 15, 2018, FTB received payments in the amounts of \$5.00 and \$295.00. On May 20, 2019, FTB received a payment in the amount of \$13,398.45.
6. On January 15, 2022, appellants untimely filed their 2015 California tax return, electing the married filing jointly filing status and reporting an overpayment of tax.
7. FTB accepted the late filed return. According to FTB's records, appellants made payments totaling \$13,698.45 and after deducting a cost recovery fee of \$287.00, FTB computed an overpayment of \$13,411.45. FTB, however, was unable to refund or credit the overpayment due to the expiration of the statute of limitations.
8. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed or made 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 due date for filing a return for the year at issue (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. (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.)

Appellants' 2015 tax return, which FTB treated as appellants' refund claim, was untimely filed on January 15, 2022. Here, appellants' refund claim is barred by the statute of limitations because they did not file their refund claim within the statute of limitations as set forth in R&TC section 19306(a). The first statute of limitations period is inapplicable because the 2015 tax return was not filed pursuant to a valid extension of time to file. The second statute of limitations period, which expired on April 15, 2020, and then postponed to July 15, 2020, because of the COVID-19 pandemic, was not met since appellants' 2015 refund claim was not

filed until January 15, 2022.¹ Lastly, there is no dispute that the third statute of limitations period expired because there were no overpayments made within one year prior to the claim for refund filed on January 15, 2022.²

On appeal, appellants assert that the statute of limitations should be suspended because of appellant-husband's medical issues and financial hardships. Appellant-husband asserts that about 10 years ago, he started to have bad anxiety and panic attacks. Appellant-husband claims that he was "self-medicating" and his depression worsened to the point where he was forced to sell his house. Appellant-husband also explains that his only asset at the time was his car and he had to borrow money to pay off the 2015 taxes, which he incorrectly believed, because he claims he was "so out of it mentally," was the liability for the 2018 tax year. Lastly, appellant-husband explains that his "family is innocent," and they need the money to rebuild the life that appellant-husband took away.

The language of the statute of limitations must be strictly construed, and there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) However, a narrow exception applies pursuant to R&TC section 19316, which states that the time period for filing a claim for refund may be suspended, and therefore extended, if a taxpayer is "financially disabled," as defined by that provision. The running of the period for filing a claim for refund is suspended if: (1) "an 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"; and (2) there is no spouse or other legally authorized person who can act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b)(1)-(2).) When a taxpayer 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 the taxpayer was unable to manage his or her financial

¹ Due to COVID-19, in cases where an applicable statute of limitations to file a timely claim for refund expires during the period between March 12, 2020, through July 15, 2020 (postponement period), FTB will consider the claim timely if filed on or before July 15, 2020. (See FTB Notice 2020-02.)

² The last payment FTB collected from appellants was on May 20, 2019, and appellants' tax withholding payments for the 2015 tax year are deemed to be paid on the due date of the tax return, which here is April 15, 2016, pursuant to R&TC section 19002(c)(1).

affairs. (*Appeal of Estate of Gillespie, supra.*) To suspend the statute of limitations, the period of financial disability must occur during the limitations period. (*Ibid.*)

Here, appellants do not provide any evidence to show that the statute of limitations should be suspended due to financial disability. Appellants did not provide a physician’s affidavit or medical records to prove that appellant-husband was financially disabled within the limitations period. Appellant-husband also did not provide evidence that no other legally authorized person (e.g., appellant-wife) could have acted on behalf of appellant-husband’s financial matters. Accordingly, appellants’ claim for refund is barred by the statute of limitations.

HOLDING

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

DISPOSITION

FTB’s action in denying appellants’ claim for refund is sustained.

DocuSigned by:
Eddy Y.H. Lam
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Eddy Y.H. Lam
Administrative Law Judge

We concur:
DocuSigned by:
Sara A. Hosey
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Sara A. Hosey
Administrative Law Judge

DocuSigned by:
Andrea L.H. Long
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Andrea L.H. Long
Administrative Law Judge

Date Issued: 1/30/2023