

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 220811016
J. LANGDELL (DEC'D) AND)
P. LANGDELL (DEC'D))
_____)

OPINION

Representing the Parties:

For Appellants: W. Langdell, Administrator and Executor

For Respondent: Bradley J. Coutinho, Tax Counsel III

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Langdell (dec'd) and P. Langdell (dec'd), (appellants) appeal actions by respondent Franchise Tax Board (FTB) denying appellants' claims for refund of \$1,486.04, \$7,983.87, and \$24,659.54 for the 2015, 2016, and 2017 tax years, respectively.

Appellants waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

Whether appellants' claims for refund for the 2015, 2016, and 2017 tax years, respectively, are barred by the statute of limitations.

FACTUAL FINDINGS

1. During the 2015, 2016, and 2017 tax years, appellants suffered from dementia.
2. On March 22, 2017, appellants' executor, W. Langdell, along with J.C. Langdell, were appointed as attorney-in-fact to act for taxpayers in financial matters, including tax matters.
3. Appellants did not timely file California Resident Income Tax Returns for the 2015, 2016, and 2017 tax years.

4. FTB obtained information indicating that appellants received sufficient income for the 2015, 2016, and 2017 tax years to prompt a return filing requirement, but had not filed a return.¹ FTB issued a Demand for Tax Return for each year, requesting that appellants respond or file California income tax returns. Appellants did not respond or file tax returns.
5. FTB issued Notices of Proposed Assessment (NPAs) estimating appellants' income and proposing to assess tax, penalties, fees, and interest. For the 2015 tax year, the NPA estimated income and proposed to assess tax of \$898.00, penalties of \$449.00, and a filing enforcement fee of \$81, plus interest. For the 2016 tax year, the NPA estimated income and proposed tax of \$5,116.00, penalties of \$2,454.25, and a filing enforcement fee of \$84, plus interest. For the 2017 tax year, the NPA estimated income and proposed tax of \$14,812.00, penalties of \$7,366.75, and a filing enforcement fee of \$93, plus interest. Appellants did not respond to the NPAs, and they went final.
6. For the 2015 tax year, FTB received payments totaling \$1,486.05 on September 5, 2017. For the 2016 tax year, FTB received tax withholdings of \$415.00 which were applied to appellants' account on April 15, 2017, and payments of \$7,515.35, and \$53.52 on August 13, 2018, and October 1, 2018, respectively. For the 2017 tax year, FTB received tax withholdings of \$158.00 which were applied to appellants' account on April 15, 2018, and a payment of \$24,818.54 on August 25, 2020.
7. On April 19, 2020, P. Langdell passed away. On June 18, 2021, J. Langdell passed away.
8. On May 6, 2022, appellants' executor filed a California Resident Income Tax Return for the 2015 tax year on appellants' behalf, reporting zero tax. On May 15, 2022, appellants' executor filed returns for the 2016 and 2017 tax years on appellants' behalf, reporting zero tax.
9. FTB accepted the returns as filed and treated them as claims for refund. FTB denied appellants' claims for refund on the basis that appellants had not filed the claims for refund within the statute of limitations.
10. This timely appeal followed.

¹ For the 2015, 2016, and 2017 tax years, the filing threshold for joint filers over 65 years of age with no dependents was California gross income of at least \$43,414, \$44,297, and \$45,460, respectively, or adjusted gross income of at least \$36,912, \$37,658, and \$38,649, respectively.

DISCUSSION

If it is determined that there has been an overpayment by a taxpayer of any liability imposed under the Personal Income Tax Law, for any year for any reason, the amount of the overpayment may be credited against any amount due from the taxpayers, and the balance shall be refunded to the taxpayers. (R&TC, § 19301(a); *Appeal of Cornbleth*, 2019-OTA-408P.) The taxpayers have the burden of proof to show that the claim for refund is timely and that a refund should be granted. (*Appeal of Cornerstone Compounding Pharmacy, Inc.*, 2021-OTA-196P.) 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).)

R&TC section 19306(a) provides that 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 an extension of time to file; (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. There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*) A taxpayer's untimely filing of a claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*; *U.S. v. Dalm* (1990) 494 U.S. 596.) Federal courts have stated that fixed deadlines may appear harsh because they can be missed, but the resulting occasional harshness is redeemed by the clarity of the legal obligation imparted. (*Appeal of Cornbleth, supra*, citing *Prussner v. U.S.* (7th Cir. 1990) 896 F.2d 218, 222.)

While, as noted above there is no general reasonable cause or equitable basis for suspending the statute of limitations (*Appeal of Benemi Partners, supra*), the statute of limitations may be tolled for the period of time during which the taxpayer is considered "financially disabled" as defined in R&TC section 19316(b). R&TC section 19316 identifies two requirements to prove an individual taxpayer is financially disabled: (1) the taxpayer must be 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 not less than 12 months; and (2) the taxpayer must have no spouse or any

other person legally authorized to act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b)(1), (2); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The financial disability of an individual taxpayer shall be established in accordance with those procedures and requirements specified by FTB. (R&TC, § 19316(a).) Those procedures and requirements specified by FTB includes the use of FTB Form 1564, which requires, in part, an affidavit from a physician signed under penalty of perjury, stating to the best of the physician's knowledge, the specific period during which the patient was prevented from managing his or her financial affairs. (*Appeal of Gillespie, supra.*)

In this appeal, appellants' returns were due on April 15, 2016, April 15, 2017, and April 15, 2018, respectively. Appellants' returns, which are also their claims for refund, were not filed until May of 2022. The first four-year statute of limitations period described in R&TC section 19306(a) is not applicable here because appellants did not file a return within the extended filing period. The second four-year statute of limitations period to file a claim for refund for the 2015, 2016, and 2017 tax years expired on July 15, 2020,² May 17, 2021,³ and April 15, 2022, respectively. Appellants' claims for refund were not filed until May of 2022, and are, therefore, untimely under the second four-year statute of limitations period. With respect to the one-year statute of limitations period described in R&TC section 19306(a), a refund may only be made of payments made during the one-year period from May of 2021, through May of 2022, the date appellants' claims for refund were filed. No payments for the 2015, 2016, or 2017 tax years were made within this one-year statute of limitations period.⁴ Accordingly, appellants' claims for refund were not timely.

Appellants' executor contends that the statute of limitations should be tolled because appellants suffered from dementia during the tax years in dispute and were incapable of timely filing their returns. Although appellants' executor was appointed to act as appellants' attorney

² For claim for refunds where the applicable statute of limitations would expire during the period of March 12, 2020, through July 15, 2020, FTB postponed the claim for refund deadline until June 15, 2020, because of COVID-19. See FTB Notice 2020-02 available at <https://www.ftb.ca.gov/tax-pros/law/ftb-notices/2020-02.pdf>.

³ FTB also postponed the date for individual taxpayers to file a claim for refund for the 2016 tax year until May 17, 2021, because of COVID-19. 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>.

⁴ Appellants' last payment for these tax years was the \$24,818.54 payment made on August 25, 2020, which was applied to appellants' 2017 tax year. With respect to this last payment, in order to be timely under the one-year statute of limitations period, appellants' claim for refund for the 2017 tax year needed to be filed on or before one year from the date of this payment (i.e., on or before August 25, 2021).

with respect to tax matters, he asserts that he was not able to obtain tax records from appellants that would enable him to file tax returns on their behalf, that FTB's income estimates overstated appellants' income because appellants had deductible medical expenses that were not included in those estimates, and that he was unaware of the existence of Form 1564.

While appellants' executor has described a medical condition that would generally warrant a finding that appellants were financially disabled, the law requires a physician's affidavit and the Office of Tax Appeals (OTA) cannot waive the requirement. Without a physician's affidavit, the period of financial disability cannot be established for purposes of tolling the statute of limitations. FTB's denial of the claims for refund must be sustained on this evidentiary basis.

Additionally, a taxpayer will not be considered financially disabled for any period where their spouse or any other person is legally authorized to act on their behalf. (R&TC, § 19316(b)(2).) Here, appellants' executor has been authorized to act on appellants' behalf since March of 2017. Thus, even if the evidentiary requirements were met, the statute of limitations cannot be tolled beyond the date of his appointment, and the refund claims would still be untimely since the four-year period would end in March of 2021.

While the OTA is sympathetic to appellants' circumstances, the executor's arguments regarding not having access to the tax records that would have enabled him to prepare appellants' tax returns after being authorized to act on appellants' behalf in March of 2017 is a reasonable cause or equitable argument. However, there is no general reasonable cause exception to the statute of limitations and these specific circumstances do not fall within the narrow confines of R&TC section 19316. Accordingly, the appellants' claims for refund are not timely and no refund may be made.

HOLDING

Appellants’ claims for refund for the 2015, 2016, and 2017 tax years, respectively, are barred by the statute of limitations.

DISPOSITION

FTB’s actions denying appellants’ claims for refund are sustained.

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Veronica I. Long
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Veronica I. Long
Administrative Law Judge

We concur:
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Eddy Y.H. Lam
Administrative Law Judge

DocuSigned by:
Asaf Kletter
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Asaf Kletter
Administrative Law Judge

Date Issued: 3/21/2023