

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:

R. LI

) OTA Case No. 220510425
)
)
)
)

OPINION

Representing the Parties:

For Appellant:

Chase Moery, Tax Appeals Assistant
Program (TAAP) Student Representative¹

For Respondent:

Paige Chang, Tax Counsel
Philip Klean, Tax Counsel III

A. VASSIGH, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) 19324, R. Li (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$4,734 for the 2015 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 Amanda Vassigh held an oral hearing for this matter electronically, on February 24, 2023. At the conclusion of the hearing, the record was closed and this matter was submitted for an opinion.

ISSUE

Whether appellant has established that he timely filed his claim for refund prior to the expiration of the statute of limitations.

¹ Appellant filed his own request for appeal. Chase Moery of TAAP represented appellant at the prehearing conference and oral hearing.

FACTUAL FINDINGS

1. FTB received appellant's 2015 California tax return on January 15, 2022. FTB accepted appellant's return, on which appellant reported an overpayment of \$4,734.
2. FTB treated appellant's return as a refund claim.
3. On February 14, 2022, FTB issued a Statute of Limitations letter to appellant, denying a refund of the overpayment amount on the basis that the statute of limitations for the claim for refund had expired.
4. Appellant then filed this timely appeal.

DISCUSSION

R&TC section 19306 sets forth the statute of limitations to file a claim for refund. R&TC section 19306(a) provides, in part, 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 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. The taxpayer has the burden of proof in showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Appeal of Cornbleth*, 2019-OTA-408P.) A taxpayer's failure to file a claim for refund, for whatever reason, within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P; *Appeal of Jacqueline Mairghread Patterson Trust*, 2020-OTA-187P; *Appeal of Estate of Gillespie, supra.*) This is true even when it is later shown that the tax was not owed in the first place. (*U.S. v. Dalm* (1990) 494 U.S. 596, 602; *Appeal of Benemi Partners, L.P., supra.*) While fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Prussner v. U.S.* (7th Cir. 1990) 896 F.2d 218, 222-223, citing *U.S. v. Locke* (1985) 471 U.S. 84, 100-101 and *U.S. v. Boyle* (1985) 469 U.S. 241, 249.)

R&TC section 19316 provides that the period for filing a claim for refund may be suspended, and therefore extended, if a taxpayer is "financially disabled," as defined in R&TC

section 19316(b). Financial disability exists 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/registered domestic partner 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 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 affairs. (*Appeal of Estate of Gillespie, supra.*) The taxpayer bears the burden of proof to show that they were financially disabled. (*Ibid.*) To suspend the statute of limitations, the period of financial disability must occur during the limitations period. (*Ibid.*)

Since appellant did not file a timely return, the applicable claim for refund statute of limitations in this appeal is the later of four years from the last day prescribed for filing the return (without regard to any extension of time to file) or one year after the date of the overpayment. (R&TC, § 19306(a).) For the 2015 tax year, the four-year statute of limitations period expired on July 15, 2020 (four years from the due date of April 15, 2016, plus time provided under the COVID-19 State of Emergency postponement).² Appellant did not file a claim for refund until January 15, 2022. Appellant’s claim for refund is, therefore, barred under the four-year statute of limitations period.

The one-year statute of limitations only applies to payments made within one year of the date the claim for refund is filed. (R&TC, § 19306(a).) Appellant’s last payment for the 2015 tax year was made through a withholding credit, which is deemed paid for purposes of R&TC section 19306 on the return due date of April 15, 2016. (R&TC, § 19002(c)(1).) Since appellant filed his refund claim on January 15, 2022, more than one year after the date of the overpayment, appellant’s claim for refund is barred under the one-year statute of limitations.

In this appeal, appellant does not argue that he filed his California tax return within the prescribed time periods set forth in R&TC section 19306. Instead, appellant argues that his

² R&TC section 18572, which incorporates Internal Revenue Code section 7508A, gives FTB the authority to postpone certain tax-related deadlines. Where the applicable statute of limitations to file a timely claim for refund expired during the period of March 12, 2020, through July 15, 2020, FTB will consider the claim timely if filed on or before July 15, 2020. (FTB Notice 2020-02 (March 30, 2020), available at <https://www.ftb.ca.gov/tax-pros/law/ftb-notices/2020-02.pdf>.)

situation rises to “such a level as to justify a waiver” of the statute of limitations. Appellant testified during the hearing about the caregiving challenges he faced, and the added stress of unemployment and the expense of car and home repairs. Appellant contends that the stress he was under rendered him financially disabled and unable to manage his financial affairs, and that the overpayment of tax should be returned to him because he is in need of the funds.

Mr. Li’s testimony during the hearing was an earnest plea for relief based on reasonable cause. However, the law does not provide a reasonable or equitable basis for suspending the statute of limitations. (*Appeal of Estate of Gillespie, supra.*) A taxpayer’s untimely filing of a refund claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) As explained above, this is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*)

Appellant also contends that OTA should determine that he was financially disabled, even though he has never submitted a physician’s affidavit and the relevant form (FTB Form 1564, titled “Financially Disabled – Suspension of the Statute of Limitations”) to FTB. According to appellant, seeking a doctor’s signature can be “impractical and burdensome.” However, without that crucial documentation, OTA cannot determine whether appellant had any medically determinable physical or mental impairments that prevented him from managing his financial affairs during the limitations period. In the present appeal, appellant has not established that he was unable to manage his financial affairs due to a medically determinable physical or mental impairment, nor has he shown that there was no other person legally authorized to act on his behalf in financial matters. Therefore, appellant has not shown that the statute of limitations should be suspended due to financial disability.

Without a timely refund claim, appellant’s claim for refund is barred by the statute of limitations.

HOLDING

The statute of limitations bars appellant’s claim for refund for the 2015 tax year.

DISPOSITION

FTB’s action denying appellant’s claim for refund for the 2015 tax year is sustained.

DocuSigned by:
Amanda Vassigh
7B17E958B7C14AC...

Amanda Vassigh
Administrative Law Judge

Date Issued: 4/19/2023