

- the period from November 15, 2017, through June 15, 2019, FTB collected payments from appellant totaling \$373.47 and applied them to appellant's 2013 tax year liability.¹
2. On November 18, 2020, appellants untimely filed their 2005 California tax return and claimed an overpayment of \$437.00.²
 3. FTB processed appellants' 2003, 2005, and 2006 California tax returns, but denied all of the claims for refund because the statute of limitations had expired for each of them.
 4. This timely appeal followed.

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.)

Appellants' 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 appellants did not timely file their 2003, 2005, and 2006 California tax returns. The second statute of limitations period expired four years from the original due date of each tax return, which was on April 15, 2008, for the 2003 tax year; April 15, 2010, for the 2005 tax year; and April 15, 2011, for the 2006 tax year. Here, appellants filed their 2003 and 2006 California tax returns on November 15, 2020, and 2005 California tax return on November 18, 2020, which are outside of the statute of limitations period for those dates.

¹ FTB imposed a \$101.00 collection cost recovery fee and an \$11.00 lien fee. As such, the correct amount at issue for the 2003 tax year is \$1,098.47 (\$837.00 refund claimed by appellants + \$373.47 of bill payments collected - \$101.00 collection cost recovery fee - \$11.00 lien fee).

² FTB imposed a \$11.00 lien fee. As such, the correct amount at issue for the 2005 tax year is \$426.00 (\$437.00 refund claimed by appellants - \$11.00 lien fee).

With respect to the third statute of limitations period, appellants' most recent payment towards any of the tax years at issue was collected on June 15, 2019, and it was applied to the 2003 tax year.³ The one-year statute of limitation for that payment expired on June 15, 2020. However, appellants filed their claim for refund for the 2003 and 2006 tax years on November 15, 2020, and 2005 tax year on November 18, 2020. The remainder of the payments were made prior to June 15, 2019, and appellants did not file their claims for refunds within one year of those payments. Therefore, the claims are barred by the statute of limitations as to all payments for each of the tax years at issue.

For purposes of this appeal, 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 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.*) FTB imposes the additional requirement that a taxpayer submit an affidavit from a physician that identifies the period during which the taxpayer's impairment rendered the taxpayer incapable of managing his or her financial affairs. (*Ibid.*)

Appellants assert that, beginning in 2005, appellant-wife endured various medical and personal hardships. To the extent that appellants are arguing that appellant-wife's hardships rendered her "financially disabled" as defined by R&TC section 19316, appellants have not submitted the requisite affidavit from a physician identifying the period during which appellant-wife's impairment rendered her incapable of managing her financial affairs. Moreover, R&TC section 19316 only allows the statute of limitations to be tolled when there is no spouse or other person who is legally authorized to act on the individual taxpayer's behalf in financial matters during the relevant period. (R&TC, § 19316(b)(2).) In this case, there is no evidence in the

³ Appellants' claimed income tax withholdings for the 2003 and 2005 tax years are all deemed to be paid on the original due date of appellants' California tax returns on April 15, 2004, and April 15, 2006, respectively. (R&TC, § 19002(c)(1).) Appellants did not claim any income tax withholdings for 2006 tax year.

record that both spouses suffered from a physical or mental impairment or that appellant-husband was not legally authorized to act on behalf of both appellants with respect to filing a claim for refund. Thus, appellants have not established that they were financially disabled pursuant to the provisions in R&TC section 19316(b), and therefore, the statute of limitations is not suspended and appellants’ claim for refund is time-barred.

HOLDING

Appellants’ claims for refund are barred by the statute of limitations.

DISPOSITION

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

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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:
Lauren Katagihara
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Lauren Katagihara
Administrative Law Judge

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