

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:
D. IPAKTCHIAN

) OTA Case No. 22029695
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OPINION

Representing the Parties:

For Appellant: D. Ipaktchian

For Respondent: Leoangelo C. Cristobal, Tax Counsel

For Office of Tax Appeals: Zack Sabbagh, Graduate Student Assistant

K. Long, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, D. Ipaktchian (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claims for refund of \$4,122.31 for the 2014 tax year and of \$2,196.11 for the 2015 tax year.

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

ISSUE

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

FACTUAL FINDINGS

1. Appellant did not file timely California income tax returns for the 2014 and 2015 tax years.
2. FTB obtained information indicating appellant had sufficient income to prompt a return filing requirement. FTB subsequently issued Demands for Tax Return (the Demands) for tax years 2014 and 2015, on January 12, 2016, and April 18, 2017, respectively.
3. Appellant did not respond to the Demands.

4. On March 14, 2016, FTB issued a NPA for the 2014 tax year to appellant based on information on appellant's Forms W-2 which indicated that appellant had sufficient income to trigger the return filing requirement. The NPA proposed to assess a tax liability and imposed a late filing penalty, a notice and demand penalty (demand penalty), a filing enforcement fee, and applicable interest.
5. On June 19, 2017, FTB issued a NPA to appellant for the 2015 tax year based on information on appellant's W-2s which indicated that appellant had sufficient income to trigger the return filing requirement. The NPA proposed to assess a tax liability and imposed a late filing penalty, a demand penalty, a filing enforcement fee, and applicable interest.
6. Appellant did not respond to the NPAs, and the proposed liabilities became final. FTB then commenced collection actions for both taxable years. FTB received payments during the periods April 6, 2017, through June 13, 2017, for 2014, and April 15, 2018, through January 5, 2022, for 2015, which satisfied the liabilities.
7. On December 15, 2021, appellant filed untimely returns for the 2014 and 2015 tax years, reporting \$0 in taxable income and claiming refunds of \$4,303 for 2014 and \$9,067 for 2015.
8. By letter dated January 31, 2022, FTB denied appellant's 2014 claim for refund after determining that appellant did not file a tax return or claim for refund within the permissible time frame under R&TC section 19306.
9. By letter dated February 1, 2022, FTB denied appellant's 2015 claim for refund after determining that appellant did not file a tax return or claim for refund within the permissible time frame under R&TC section 19306. A portion of appellant's 2015 tax refund claim was for payments made within the statute of limitations period and FTB credited it to the 2016 tax year, in the amount of \$1,829.90. The remaining refund claim of \$366.21 was denied because the statute of limitations for a refund or credit had expired.
10. This timely appeal followed.

DISCUSSION

R&TC section 19306(a) describes the statute of limitations for filing a claim for a refund. R&TC section 19306(a) provides, in relevant part, that no credit or refund may 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 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. A taxpayer has the burden of proving that entitlement to a refund. (*Appeal of Jali, LLC*, 2018-OTA-052P.)

The language of the statute of limitations must be strictly construed, and there is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*) A taxpayer's failure, for whatever reason, to file a claim for refund or credit within the statutory period prevents the taxpayer from doing so at a later date. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

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

Appellant's 2014 return was not filed until December 15, 2021. Because appellant did not file the return by the extended due date of October 15, 2015, the four-year statute of limitations to file a claim for refund began to run on the original due date of appellant's 2014 return, April 15, 2015, and expired four years later, on April 15, 2019. (R&TC, § 19306(a).) 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).) Here, appellant's last payment was on June 13, 2017. Because appellant's claim for refund was not filed until December 15, 2021,

which is more than one-year later, appellant's claim for refund is also barred under the one-year statute of limitations.

Appellant's 2015 return was filed on December 15, 2021. Because appellant did not file the return by the extended due date of October 16, 2016, the four-year statute of limitations to file a claim for refund began to run on the original due date of appellant's 2015 return, April 15, 2016, and expired four years later, on April 15, 2020. (R&TC, § 19306(a).) 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).) As discussed above, appellant filed his 2015 return on December 15, 2021. As such, any payments made between December 15, 2020, and December 15, 2021, are not barred by the statute of limitations. OTA notes that appellant made payments during this period, which were credited towards appellant's other liabilities. (R&TC, § 19362(b).) However, payments made prior to December 15, 2020, are barred by the statute of limitations.

Here, appellant asserts that the statute of limitations to file claims for refund for 2014 and 2015 should be extended due to a series of personal hardships and medical issues. Appellant claims that these personal issues prevented him from filing his tax returns in 2021. However, the statute of limitations for the taxpayer are strictly construed and there is no reasonable cause or equitable basis for suspending the statutory period. (*Appeal of Benemi Partners, L.P., supra.*) Therefore, appellant's claims for refund are barred by the statute of limitations unless a statutory exception applies.

Financial disability may extend the statute of limitations to file a claim for refund. (R&TC, § 19316; *Appeal of Estate of Gillespie, supra.*) The taxpayer bears the burden of proof to show that they were financially disabled. (*Ibid.*) FTB provided appellant with the opportunity to establish financial disability. However, appellant has not provided any evidence, such as a physician's affidavit or medical records, to show financial disability. Appellant's unsupported assertions are not sufficient to satisfy his burden of proof. (*Appeal of Bracamonte, 2021-OTA-156P.*) Therefore, appellant has not shown that the statute of limitations should be suspended due to financial disability.

HOLDING

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

DISPOSITION


FTB’s denials of appellant’s claims for refund for the 2014 and 2015 tax years are sustained.

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Keith T. Long
Administrative Law Judge

We concur:

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Josh Lambert
Administrative Law Judge

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Amanda Vassigh
Administrative Law Judge

Date Issued: 4/26/2023