

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of: ) OTA Case No. 21129382  
D. LAAKSO AND )  
D. HOUSE-LAAKSO )  
\_\_\_\_\_) )  
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**OPINION**

Representing the Parties:

For Appellant: D. Laakso  
D. House-Laakso

For Respondent: Eric R. Brown, Tax Counsel III

J. LAMBERT, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, D. Laakso and D. House-Laakso (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying their claim for refund of \$858 for the 2017 tax year.

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

**ISSUE**

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

**FACTUAL FINDINGS**

1. Appellants untimely filed their 2017 California Resident Income Tax Return on July 11, 2022. The return reported total tax of \$143 and California withholdings of \$1,001. The return claimed an overpayment of \$858 and requested a refund of the same amount.
2. FTB accepted the return as filed. FTB considered the return to be a claim for refund, which it denied.

3. This timely appeal followed.
4. On appeal, appellants assert that the late filing of the return was due to health issues of D. Laakso, and provide supporting medical records. Office of Tax Appeals (OTA) requested additional briefing asking appellants whether they are asserting that the statute of limitations should be suspended because of financial disability, pursuant to R&TC section 19316. OTA stated that, if appellants contend that a financial disability existed, then appellants should provide a physician's affidavit that identifies the disability period when D. Laakso was unable to manage his financial affairs, and to explain and provide evidence as to whether D. House-Laakso was legally authorized to act on D. Laakso's behalf in financial matters during that period, pursuant to R&TC section 19316(b). Appellants did not respond to OTA's request.

#### DISCUSSION

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 original 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).) A taxpayer bears the burden of proving entitlement to a refund claim and that the claim is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

The law does not provide for the waiver of the statute of limitations based on reasonable cause or equity. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) 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.) This is true even when it is later shown that the tax was not owed in the first instance. (*Appeal of Benemi Partners, L.P., supra.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

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). For purposes of R&TC section 19316, 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.<sup>1</sup> (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.*)

Appellants’ 2017 return, which was filed on July 11, 2022, is treated as their claim for refund. Because appellants did not file the return by the extended due date of October 15, 2018, the four-year statute of limitations began to run on the original due date of appellants’ 2017 return, April 15, 2018, and expired four years later on April 15, 2022. (R&TC, § 19306(a).) Appellants’ 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).) Tax withholdings are deemed paid on the original due date of the return. (R&TC, § 19002(c)(1).) As a result, appellants’ California withholdings are deemed paid on April 15, 2018. One year from that date is April 15, 2019, which is before July 11, 2021. Appellants do not contend, and the evidence does not show that they made any payments between July 11, 2021, and July 11, 2022. Therefore, appellants’ claim for refund is also barred under the one-year statute of limitations.

Appellants contend that FTB did not consider the extension of the statute of limitations due to the COVID-19 pandemic. However, FTB did not provide any postponements of the statute of limitations that are applicable to appellants’ claim for refund for tax year 2017. In response to COVID-19, FTB postponed the expiration of the statute of limitations for refund claims that expired between March 12, 2020, and July 15, 2020, to July 15, 2020.<sup>2</sup> Appellants’ four-year statute of limitations expired on April 15, 2022, and their one-year statute of limitations expired on April 15, 2019, neither of which falls within the period for which FTB granted a postponement until July 15, 2020. FTB also postponed the due date for individuals to

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<sup>1</sup> See FTB Form 1564, Financially Disabled - Suspension of the Statute of Limitations.

<sup>2</sup> See [www.ftb.ca.gov/tax-pros/law/ftb-notices/2020-02.pdf](http://www.ftb.ca.gov/tax-pros/law/ftb-notices/2020-02.pdf).

claim a refund for the 2016 tax year.<sup>3</sup> Appellants' claim for refund is for the 2017 tax year, rather than the 2016 tax year; therefore, the postponement for refund claims for the 2016 tax year does not apply.

Appellants assert that their failure to receive a refund would cause them financial hardship. However, there is no equitable basis for suspending the statute of limitations, such as due to financial hardship. (See *Appeal of Benemi Partners, L.P., supra.*) Appellants also assert that the late filing of the return was due to health issues of D. Laakso, and they provide supporting medical records. To the extent that appellants contend that reasonable cause, such as medical issues or difficult circumstances, prevented them from filing the refund claim earlier, there is no reasonable cause basis for waiving the statute of limitations. (*Ibid.*)

In addition, OTA requested additional briefing asking appellants whether they are asserting that the statute of limitations should be suspended because of financial disability, pursuant to R&TC section 19316. OTA stated that, if appellants contend that a financial disability existed, then appellants should provide a physician's affidavit that identifies the disability period when D. Laakso was unable to manage his financial affairs, and to explain and provide evidence as to whether D. House-Laakso was legally authorized to act on D. Laakso's behalf in financial matters during that period. (See R&TC, § 19316(b); *Appeal of Estate of Gillespie, supra.*) Appellants did not respond to OTA's request. Therefore, appellants do not provide evidence establishing that the statute of limitations should be suspended due to a financial disability pursuant to R&TC section 19316.

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<sup>3</sup> See [www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html](http://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html).

HOLDING

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

DISPOSITION

FTB's action denying appellants' claim for refund is sustained.

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*Josh Lambert*  
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Josh Lambert  
Administrative Law Judge

Date Issued: 8/3/2023