

2. FTB issued a Request for Tax Return (Request) to appellant Zhou on February 20, 2018, and a Demand for Tax Return (Demand) to appellant Wang on May 1, 2018, for the 2016 tax year. FTB asked appellants to respond by filing a 2016 tax return, providing evidence that they already filed a 2016 tax return, or explaining why there is no requirement to file a 2016 tax return.
3. Appellants did not respond to the Request or Demand.
4. On April 23, 2018, FTB issued a Notice of Proposed Assessment (NPA) for appellant Zhou proposing a tax assessment of \$5,852.00 based on an estimate of income, and imposing a late filing penalty of \$1,463.00, plus interest.
5. On July 2, 2018, FTB issued an NPA for appellant Wang proposing a tax assessment of \$3,929.00 based on an estimate of income, and imposing a late filing penalty of \$982.25, a demand to file penalty of \$1,462.50, and a filing enforcement fee of \$84.00, plus interest.
6. Appellants did not protest the NPAs, and both NPAs became final.
7. On September 27, 2018, and December 13, 2018, appellants submitted payments of \$7,751.58 and \$6,811.00, respectively, for the 2016 tax year.
8. On August 3, 2022, appellants filed a joint 2016 California income tax return, reporting a total tax of \$22,676.00, withholding credits of \$17,754.00, tax payments totaling \$14,563.00 (consisting of the \$7,751.58 and \$6,811.00 payments above), and claiming an overpayment of \$9,641.00 (rounded).
9. FTB treated the late return as a claim for refund for the 2016 tax year, and denied the refund claim on the basis that appellants failed to file their claim for refund before the statute of limitations expired.
10. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund 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 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. (R&TC, § 19306(a).) Taxpayers have the burden of proving

that the claims are timely and that they are entitled to a refund. (*Appeal of Estate of Gillespie, 2018-OTA-052P (Gillespie)*.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P., 2020-OTA-144P (Benemi)*.)

On appeal, appellants do not contend that they filed their refund claim within the statute of limitations period. Rather, appellants raise several points for suspending the statute of limitations in this case. Appellants assert that they were not able to file their 2016 tax return within the statute of limitations because they were “working under high pressure” while their three-year-old child received an eye operation in 2016. Appellants assert that they were overworked while having to take care of two young children and appellant Wang “collapsed mentally.” Additionally, appellants assert that they are both first generation immigrants and honestly believed they did not have to file a 2016 tax return because they had already paid tax through withholding payments. However, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Gillespie, supra*.) Although appellants suffered many hardships, the language of the statute of limitations must be strictly construed. (*Benemi, supra*.)

While the time for filing a claim for refund may be extended if a taxpayer is “financially disabled,” as defined in R&TC section 19316, the record does not indicate whether and when appellants were financially disabled. 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).) To demonstrate the existence of a financial disability, a taxpayer must submit a signed affidavit from a physician that explains the nature and duration of the taxpayer’s physical or mental impairments. (*Gillespie, supra*.) Here, the record does not contain a signed affidavit from a physician and other evidence to indicate both appellants were financially disabled at any relevant time. Therefore, appellants have not met the burden of proving that they were financially disabled, such that the statute of limitations can be suspended.

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

HOLDING

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

DISPOSITION

FTB’s action in denying appellants’ claim for refund is sustained.

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Ovsep Akopchikyan
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Ovsep Akopchikyan
Administrative Law Judge

We concur:
DocuSigned by:
Tommy Leung
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Tommy Leung
Administrative Law Judge

DocuSigned by:
Michael Geary
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Michael Geary
Administrative Law Judge

Date Issued: 10/16/2023