



filed pursuant to an extension of time to file; (2) four years from the 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 has the burden of proof to show entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) If a taxpayer fails to file a claim for refund within the statute of limitations, the claim is barred even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*)

Appellant did not file a 2012 tax return by the extended due date of October 15, 2013; thus, the first four-year statute of limitations period does not apply. (R&TC, § 18567; Cal. Code Regs., tit. 18, § 18567(a).) The second four-year statute of limitations period runs from the original April 15, 2013 due date of appellant's 2012 return, and expired four years later on April 15, 2017. (R&TC, §§ 18566, 19306(a).) Appellant, however, filed his tax return for the 2012 taxable year on January 15, 2023, which is beyond the second four-year statute of limitations period prescribed in R&TC section 19306(a). With regard to the one-year statute of limitations period, appellant's withholdings are deemed paid on the original due date for the tax return, April 15, 2013. (R&TC, § 19002(c)(1).) Thus, to be within the one-year statute of limitations, appellant must have filed a claim for refund on or before April 15, 2014. Here, appellant's claim for refund filed on January 15, 2023, is well beyond the one-year statute of limitations period prescribed in R&TC section 19306(a).

Appellant asserts only that he was delayed in filing his tax return due to a personal health matter and loss of employment. Pursuant to R&TC section 19316, the time for filing a claim for refund may be extended if a taxpayer is "financially disabled," as defined by that provision. The running of the period for filing a claim for refund pursuant to R&TC section 19306 is suspended 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 or other legally authorized person to act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b).) The financial disability of an individual taxpayer shall be established in accordance with those procedures and requirements specified by FTB. (R&TC, § 19316(a).) When an appellant alleges financial disability to suspend and thus extend the

limitations period to file a timely claim for refund, a physician's affidavit must be provided that identifies the disability period when appellant was unable to manage his or her financial affairs. (*Appeal of Gillespie, supra.*)

Appellant does not specify the nature of his personal health matter nor does appellant describe the health matter as one that is terminal or was expected to last at least 12 months. Furthermore, appellant does not explain how the personal health matter or loss of employment prevented him from filing a timely claim for refund. FTB, in its opening brief, attached instructions for demonstrating financial disability using the procedures and requirements FTB has established, such as providing a Physician's Affidavit of Physical or Mental Impairment. Although OTA invited appellant to reply to FTB's brief, appellant did not respond or submit additional evidence.


To the extent that appellant's assertions constitute an equitable request or a claim of reasonable cause, OTA notes that the statute of limitations may not be tolled based on either equitable grounds or reasonable cause. (*Appeal of Benemi Partners, L.P., supra.*)

#### HOLDING

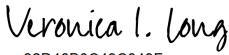
Appellant's claim for refund for taxable year 2012 is barred by the statute of limitations.


#### DISPOSITION

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

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Teresa A. Stanley  
Administrative Law Judge

We concur:

DocuSigned by:  
  
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Veronica I. Long  
Administrative Law Judge

DocuSigned by:  
  
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Eddy Y.H. Lam  
Administrative Law Judge

Date Issued: 1/2/2024