

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 230813980
S. LENTHE)
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OPINION

Representing the Parties:

For Appellant: Tax Appeals Assistance Program
For Respondent: Katherine Gan, Graduate Legal Assistant

N. RALSTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, S. Lenthe (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$4,267 for the 2018 tax year.

Appellant 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, § 30209.05.) Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

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

FACTUAL FINDINGS

1. On February 8, 2019, appellant timely filed his 2018 California Income Tax Return, reporting total tax of \$6,265. After applying withholding credits of \$8,120, appellant reported an overpayment of \$1,855, which respondent refunded to appellant.
2. On June 12, 2023, appellant filed an amended return for the 2018 tax year, which reported an overpayment of \$6,122.¹

¹ This was \$4,267 more than the \$1,855 overpayment appellant reported on the original return.

3. On June 30, 2023, appellant filed a second amended return for the 2018 tax year, which reported an overpayment of \$1,855.
4. Respondent subsequently processed appellant's June 12, 2023 (first) amended return. Respondent treated this return as a claim for refund and denied the claim because it was filed after the expiration of the statute of limitations.
5. Appellant then filed this timely appeal. According to two letters from Alameda County Employees' Retirement Association, appellant was approved for disability retirement on May 30, 2023.

DISCUSSION

The statute of limitations to file a refund claim is set forth in R&TC section 19306, which provides 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 filed within the extended due date; (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).) For purposes of the one-year statute of limitations, any tax deducted and withheld during the calendar year is deemed to have been paid on the original filing deadline for that tax year. (R&TC, § 19002(c)(1), (d)(1).) Taxpayers have the burden of proving that refund claims are timely and that they are entitled to a refund. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

Here, appellant did not file his claim for refund within the time limitations delineated in R&TC section 19306(a), and therefore, the claim is barred. Since appellant filed a timely 2018 return, the four-year statute of limitations expired on April 15, 2023. (R&TC, §§ 18566, 19306(a).) As such, appellant's June 12, 2023 claim for refund was not filed within the four-year statute of limitations period. The withholding credit of \$8,120 that appellant reported on the original 2018 return is deemed paid on the last day prescribed for filing the return—April 15, 2019. (R&TC, § 19002(c)(1), (d)(1).) The one-year statute of limitations

period expired on April 15, 2020.² Since appellant filed his claim for refund on June 12, 2023, appellant's claim for refund also falls outside of the one-year statute of limitations period.

Furthermore, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Jacqueline Mairghread Patterson Trust, supra.*) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) Neither the ill health of a taxpayer nor any other unfortunate circumstance can extend the statute of limitations. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) 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. (*Ibid.*)

There is a limited basis for suspending the statute of limitations when an individual taxpayer establishes that he or she was "financially disabled," as defined in R&TC section 19316. An individual taxpayer is considered financially disabled if: (1) he or she 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 individual taxpayer's behalf in financial matters. (R&TC, § 19316(b)(1)-(2).)

The California Legislature granted respondent the authority to establish procedures to determine whether a taxpayer is financial disabled. "The financial disability of an individual taxpayer shall be established in accordance with those procedures and requirements specified by [respondent]." (R&TC, § 19316(a).) Respondent developed Form 1564, Financially Disabled – Suspension of the Statute of Limitations, for this purpose. Form 1564 requires the taxpayer to identify the following: (1) the period when he or she was financially disabled; (2) any persons who were legally authorized to act on his or her behalf in financial matters; and (3) whether the taxpayer made a request with the IRS on the same basis. Form 1564 also requires a physician's affidavit, signed under penalty of perjury, to substantiate the information provided by the taxpayer, including the following: (1) a description of the physical or mental impairment; (2) the physician's medical opinion that the impairment made the taxpayer unable to manage his or her

² Due to the COVID-19 pandemic, if an applicable statute of limitations to file a timely claim for refund expired during the period of March 12, 2020, through July 15, 2020, FTB considered a claim timely if filed on or before July 15, 2020. (See FTB Notice 2020-02, *Time Sensitive Acts Postponed Due to the COVID-19 State of Emergency* (March 30, 2020) <https://www.ftb.ca.gov/tax-pros/law/ftb-notice/2020-02.pdf>.) As appellant did not file his claim for refund on or before July 15, 2020, this postponement date is inapplicable.

financial affairs and that the impairment lasted or was expected to last for a continuous period of not less than 12 months, or the impairment was expected to result in death; and (3) the time period during which the taxpayer was prevented from managing his or her financial affairs. (See *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 provided two letters from Alameda County Employees' Retirement Association, which indicate appellant was approved for disability retirement on May 30, 2023. However, the information that appellant provided does not show (1) that he was unable to manage his financial affairs due to 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) that there is no spouse or other legally authorized person to act appellant's behalf in financial matters. (R&TC, § 19316(b)(1)-(2).) Furthermore, appellant did not submit a completed and signed Form 1564 or a physician's affidavit. Thus, there is no basis to conclude that appellant was financially disabled during the relevant time period. Therefore, appellant's claim for refund is barred by the statute of limitations and there is no basis to suspend the statute of limitations.

HOLDING

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

DISPOSITION

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

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Natasha Ralston
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Natasha Ralston
Administrative Law Judge

Date Issued: 2/15/2024