



also required appellants to respond by November 27, 2019. However, appellants did not respond to the Request.

3. On February 28, 2020, FTB issued appellants a Notice of Proposed Assessment (NPA) for the 2017 tax year. FTB estimated appellants' taxable income based on wages earned, dividend income, and proceeds from broker and barter exchange transactions. The NPA determined appellants' total tax to be \$74,822. Following the application of the California income tax withholding of \$64,328, FTB proposed a tax liability of \$10,494, a late filing penalty of \$2,623.50, and applicable interest.
4. Appellants did not protest the NPA, and it went final.
5. FTB sent appellants a Final Notice Before Levy and Lien giving notice that collection actions would begin if FTB did not receive full payment within 30 days.
6. Appellants did not pay the balance due within 30 days. Therefore, FTB pursued involuntary collection action. FTB received payments of \$10,967.20 and \$4,154.71, on April 7, 2021, and May 8, 2021, respectively, through involuntary collection action.
7. On January 12, 2023, appellants untimely filed a joint 2017 California Resident Income Tax Return (Form 540) reporting total tax of \$61,303, total payments<sup>1</sup> of \$79,450, and requested a refund of \$18,147. Appellants used the same address on their untimely filed Form 540 as FTB used when mailing appellants the Request, NPA, and Final Notice Before Levy and Lien.
8. FTB accepted the return as filed and treated it as a claim for refund, which it denied due to the expiration of the statute of limitations.
9. This timely appeal followed.
10. On appeal, appellants submit medical records concerning their daughter's health challenges and physical disability. These records pertain to their daughter's hospitalization on September 10, 2018, and clinic visits on October 22, 2018, and March 5, 2019.

---

<sup>1</sup> Total payment of \$79,450 is a rounded amount of \$79,449.91. The total payment consists of \$64,328 from California income tax withholding; \$10,967.20 from the April 7, 2021 involuntary collection action; and \$4,154.71 from the May 8, 2021 involuntary collection action.

## DISCUSSION

R&TC section 19306(a) provides that no credit or refund shall be allowed or made 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 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).) The taxpayer has the burden of proof in showing entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellants' untimely 2017 joint tax return, which FTB treated as appellants' claim for refund, was filed on January 12, 2023. The first four years statute of limitations period is inapplicable because the 2017 tax return was not timely filed pursuant to a valid extension of time to file. The second four years statute of limitations period to file a claim for refund expired on April 15, 2022, four years after the due date of April 15, 2018. Appellants' return was filed on January 12, 2023, approximately nine months after the expiration of the second statement of limitations period. Lastly, there is no dispute that the third one-year statute of limitations period expired because there were no overpayments made within one year prior to the claim for refund filed on January 12, 2023.<sup>2</sup>

On appeal, appellants argue that the statute of limitations should be suspended. First, appellants provide reasonable cause arguments by asserting that their daughter's medical condition, which resulted in a lifelong disability, caused extraordinary challenges that impacted appellants' ability to timely comply with tax filing obligations. Appellants contend that R. Chakrapani, affected by the medical challenges of their daughter, lost her job and permanently left the workforce. In support of these contentions, appellants provide their daughter's medical records from their clinic visit notes on October 22, 2018, and March 5, 2019. Additionally, appellants assert that the impact of the COVID-19 pandemic caused appellants to overlook their tax filing obligations. Lastly, appellants argue that they did not receive any of the notices from FTB's collection efforts for the 2017 tax year.

---

<sup>2</sup> The last payment FTB collected was on May 8, 2021, through involuntary collection action. Appellants' tax withholding payments for the 2017 tax year is deemed paid on the due date of the tax return. (R&TC § 19002(c)(1).)

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.) R&TC section 19316 provides a narrow exception for suspending the statute of limitations where a taxpayer is determined to be “financially disabled.” A financially disabled taxpayer is unable to manage personal financial affairs by reason of his or her own medically determinable physical or mental impairment that is either deemed to be a terminal impairment or is expected to last for a continuous period not less than 12 months. (R&TC, § 19316(b)(1).) Beyond the narrow exception of a taxpayer being deemed “financially disabled,” a taxpayer’s failure to file a claim for refund within the statutory period bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Estate of Gillespie, supra.*) Such fixed deadlines may appear harsh, but the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid.*) Without a legislatively enacted exception to the statute of limitations, the Office of Tax Appeals (OTA) does not have the legal authority to avoid even a seemingly unfair or harsh outcome. (*Ibid.*)

Here, appellants submit medical records detailing their daughter’s challenges, contending that these, compounded with the effects of COVID-19, led them to “forget about the tax returns amidst the chaos, medical, and emotional stress.” While OTA is sympathetic to appellants’ situation, the narrow exception of R&TC section 19316 applies only when taxpayers themselves is financially disabled by reason of their own medically determinable physical or mental impairment such that they are unable to manage personal affairs. The illness of appellants’ family member falls outside of this narrow exception. Accordingly, appellants have not established that they filed their 2017 refund claim within the applicable statute of limitations or that there is an exception to toll the statute of limitations.

As to appellants’ argument that they did not receive any of the notices from FTB relating to the tax year at issue, R&TC section 18416(b) provides that any notice mailed to a taxpayer shall be sufficient if mailed to the taxpayer’s last known address. Furthermore, the last known address shall be the address that appears on the taxpayer’s last return filed with FTB, unless the taxpayer has provided to FTB clear and concise written or electronic notification of a different address, or FTB has an address it has reason to believe is the most current address for the taxpayer. (R&TC, § 18416(c).) Here, appellants have not established, and evidence in the record does not indicate, that FTB sent appellants any of the notices to an incorrect last known

address. In fact, the Request, NPA, and Final Notice Before Levy and Lien were all sent to the same address as stated in appellants’ appeal letter and untimely filed 2017 tax return. As such, the notices are deemed properly mailed to appellants.

HOLDING

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

DISPOSITION

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

DocuSigned by:  
*Eddy Y. H. Lam*  
1EAB8BDA3324477...  
\_\_\_\_\_  
Eddy Y.H. Lam  
Administrative Law Judge

We concur:

DocuSigned by:  
*Veronica I. Long*  
32D46B0C49C949E...  
\_\_\_\_\_  
Veronica I. Long  
Administrative Law Judge

DocuSigned by:  
*Keith T. Long*  
DC88A60D8C3E442...  
\_\_\_\_\_  
Keith T. Long  
Administrative Law Judge

Date Issued: 4/9/2024