

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 240115244
J. NUDELMAN AND)
S. JOSEPH)
_____)

OPINION

Representing the Parties:

For Appellants: J. Nudelman and S. Joseph

For Respondent: Yadi Li, Graduate Student Assistant

J. LAMBERT, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Nudelman and S. Joseph (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants’ claim for refund of \$5,113 for the 2018 tax year.

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. On September 15, 2023, appellants untimely filed their joint California Resident Income Tax Return (return) for the 2018 tax year, reporting withholdings of \$7,333 and total tax of \$2,220. Appellants reported an overpayment of \$5,113 and requested a refund of the same amount.
2. FTB treated the return as a claim for refund, which it denied.
3. This timely appeal followed.

DISCUSSION

R&TC section 19306 imposes a statute of limitations to file a claim for refund. R&TC section 19306(a) provides, in part, that no credit or refund shall 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 within the extended filing period pursuant to an extension of time to file; (2) four years from the due date prescribed for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. The taxpayers have the burden of proof in showing entitlement to a refund and that the claim for refund is timely. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.)

The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Appeal of Cornbleth*, 2019-OTA-408P.) Taxpayers' failure to file a claim for refund, for whatever reason, within the statutory period bars the taxpayer from doing so later, even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) While fixed deadlines may appear harsh because they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

Because appellants did not file a timely return, the applicable statutes of limitation are the later of four years from the last day prescribed for filing the tax return (without regard to any extension of time to file) or one year after the date of the overpayment. (R&TC, § 19306(a).) For the 2018 tax year, the four-year statute of limitations period statutorily expired on April 15, 2023, four years from the return filing due date of April 15, 2019. Appellants, however, did not file their return until September 15, 2023, and a refund for the overpayment is therefore barred by the applicable four-year statute of limitations. 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).) The last payment on appellants' account for the 2018 tax year was withholding payments of \$7,333 on April 15, 2019. (See R&TC, § 19002(c) [amounts withheld from wages are deemed paid on the last day prescribed for filing a return].) Therefore, the payments were made more than one year prior to the date appellants filed their return, and their claim is also barred by the one-year statute of limitations.

Appellants contend that difficulties prevented them from being financially responsible such that they could timely file their claim. Generally, neither ill health of a taxpayer nor any

other unfortunate circumstance can extend the statute of limitations for filing a claim for refund. (See *Appeal of Estate of Gillespie*, 2018-OTA-052P.) However, the time for filing a claim for refund may be extended if an individual taxpayer is “financially disabled,” which means that 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. (R&TC, § 19316(b).) In addition, an individual taxpayer shall not be considered “financially disabled” for any period during which that individual’s spouse or any other person is legally authorized to act on that individual’s behalf in financial matters. (R&TC, § 19316(b)(2).)

When an individual taxpayer alleges financial disability to suspend and extend the statute of limitations 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. (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.*) Appellants did not provide physician’s affidavits stating they were each financially disabled during the statute of limitations period, even though they were requested to do so by FTB. Therefore, appellants have not shown that the statute of limitations should be suspended due to financial disability.

HOLDING

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

DISPOSITION

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

Signed by:

Josh Lambert

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Josh Lambert
Administrative Law Judge

We concur:

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Asaf Kletter

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Asaf Kletter
Administrative Law Judge

Signed by:

Veronica I. Long

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Veronica I. Long
Administrative Law Judge

Date Issued: 9/12/2024