

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
E. CHAO) OTA Case No. 231014603
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OPINION

Representing the Parties:

For Appellant: E. Chao

For Respondent: Ariana Macedo, Graduate Legal Assistant

For Office of Tax Appeals: Caroline Spaeth,
Graduate Student Assistant

G. TURNER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, E. Chao (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$5,514 for the 2018 tax year.

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 July 5, 2023, appellant untimely filed a 2018 California Non-Resident or Part-Year Resident Income Tax Return, reporting total tax and, after applying income tax withholding credits, claimed an overpayment of \$5,514. Respondent accepted the return as filed and treated it as appellant’s claim for refund.
2. On July 25, 2023, respondent denied the claim for refund due to the expiration of the statute of limitations.
3. This timely appeal followed.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306(a). The statute of limitations provides, in pertinent 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 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).) For the purposes of R&TC section 19306(a), tax withholdings are deemed paid on the due date of the return. (R&TC, § 19002(c)(1).) 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 (*Gillespie*).

Here, appellant's 2018 tax return was due on April 15, 2019. Appellant untimely filed his 2018 California tax return on July 5, 2023. The first statute of limitations period is inapplicable because appellant did not file his 2018 tax return pursuant to a valid extension of time to file. The second statute of limitations period expired on April 15, 2023, four years after the original due date of appellant's 2018 tax return. Appellant filed his 2018 tax return, which is treated as appellant's claim for refund, on July 5, 2023, more than four years after the due date. Lastly, the third statute of limitations period expired on April 15, 2020, because appellant's tax withholding was deemed paid on the due date of the return, April 15, 2019. (R&TC, § 19002(c)(1).) Thus, appellant's claim for refund for the 2018 tax year is barred by the statute of limitations.

Appellant does not dispute the refund claim was filed after the timeframe set forth in R&TC section 19306(a). Appellant asserts he is entitled to a refund because his mental health condition prevented him from filing within the statute of limitations period. R&TC section 19316(a) provides that the time for filing a claim for refund may be suspended if a taxpayer is "financially disabled," as defined in R&TC section 19316(b). 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).) When a taxpayer alleges financial disability as cause to suspend 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 and that period must occur during the limitations period. (*Gillespie, supra.*)

Here, appellant asserts that he was diagnosed with a chronic mental health condition in 2021 and was in and out of hospitals more than eight times in 2022. However, appellant has not provided any evidence, let alone evidence as required by R&TC section 19316(b) to substantiate his claim of financial disability. Appellant’s assertions alone are not sufficient evidence to support such a claim. (See *Appeal of Gorin*, 2020-OTA-018P.) Therefore, the Office of Tax Appeals has no basis upon which to find appellant was financially disabled to suspend the statute of limitations on his refund claim for the 2018 tax year.

HOLDING

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

DISPOSITION

Respondent’s action denying appellant’s claim for refund for the 2018 tax year is sustained.

Signed by:
Greg Turner
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Greg Turner
Administrative Law Judge

We concur:

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Sheriene Anne Ridenour
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Sheriene Anne Ridenour
Administrative Law Judge

DocuSigned by:
Steven Kim
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Steven Kim
Administrative Law Judge

Date Issued: 11/19/2024