

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)	OTA Case No. 240716818
J. ANDREWS)	
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OPINION

Representing the Parties:

For Appellant:	J. Andrews
For Respondent:	Ariana Macedo, Graduate Student Assistant

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Andrews (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant's claims for refund of \$1,859 and \$2,865 for the 2018 and 2019 tax year, respectively.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05.) Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellant's claims for refund are barred by the statute of limitations.

FACTUAL FINDINGS

1. On May 28, 2024, appellant untimely filed a California Resident Income Tax Return (Return) for the 2018 tax year reporting total tax of \$4,966, California income tax withholding of \$6,825, and an overpayment of \$1,859, which appellant requested to be refunded.

2. On May 28, 2024, appellant also untimely filed a Return for the 2019 tax year reporting total tax of \$5,128, California income tax withholding of \$7,993, and an overpayment of \$2,865, which appellant requested to be refunded.
3. FTB accepted the 2018 and 2019 Returns and treated them as claims for refund.
4. On June 17, 2024, FTB denied both claims for refund due to the expiration of the statute of limitations.
5. Appellant timely filed this appeal.

DISCUSSION

Generally, no credit or refund may 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 last date prescribed 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 Benemi Partners, L.P.*, 2020-OTA-144P.)

Appellant does not dispute that the 2018 and 2019 tax year claims for refund filed on May 28, 2024, were filed outside of the statutes of limitations prescribed in R&TC section 19306(a). Rather, appellant contends that the claims for refund should be granted despite the untimely filing because appellant did not know there was a statute of limitations to file a claim for refund and appellant has experienced severe personal difficulties. Appellant explains that she suffers from mental health struggles which caused difficulty organizing expenses and receipts for two separate businesses while working full-time in healthcare during the COVID-19 pandemic. In support of her contentions, appellant provides a letter from her psychiatric provider stating she has been under the care of the provider from December 2019, through June 2024.

There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, *supra.*) Additionally, ignorance of the law does not excuse the delinquent filing of claims for refund. (*Appeal of Braeunig* (70-SBE-004) 1970 WL 2439.) However, if an individual taxpayer is “financially disabled,” as defined in R&TC section 19316, the statute of limitations may be suspended during the period of financial disability. A taxpayer is “financially disabled” if (1) the taxpayer is unable to manage personal 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) there is no spouse or other legally authorized person to act on the taxpayer's behalf in financial matters. (R&TC, § 19316(b); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Financial disability is established in accordance with the procedures and requirements specified by FTB.¹ (R&TC, § 19316(a).) The taxpayer must provide a physician's affidavit that identifies the disability period when appellant was unable to manage her financial affairs. (*Appeal of Gillespie, supra.*)

On appeal, FTB provided appellant a copy of FTB 1564, Financially Disabled – Suspension of the Statute of Limitations. However, appellant failed to submit the completed form. The physician's affidavit included in FTB 1564 asks specific questions of the physician and is signed under penalty of perjury. The letter from appellant's psychiatric provider does not meet the requirements to establish financial disability. Without a completed FTB 1564, it cannot be determined if appellant is entitled to a suspension of the statute of limitations due to financial disability.


The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P., supra.*) Appellant's argument that she did not know there was a statute of limitations does not excuse her delinquent claims for refund. (See *Appeal of Braeunig, supra.*) Additionally, as explained above, appellant has not met her burden of proving she was financially disabled, such that the statute of limitations can be suspended. Therefore, appellant's claims for refund are barred by the statute of limitations.

HOLDING

Appellant's claims for refund are barred by the statute of limitations.

DISPOSITION

FTB's actions denying the claims for refund are sustained.

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Erica Parker
Hearing Officer

Date Issued: 2/13/2025

¹ See FTB 1564, Financially Disabled – Suspension of the Statute of Limitations, www.ftb.ca.gov/forms/misc/1564.pdf.