



3. On July 2, 2018, FTB issued a Notice of Proposed Assessment (NPA), proposing a tax liability of \$2,320. The NPA also imposed a late filing penalty of \$580, a notice and demand (demand) penalty of \$2,710, a filing enforcement fee of \$84, and applicable interest. Appellants did not respond to the NPA, and the assessment became final.
4. On October 1, 2018, FTB issued a Notice of State Income Tax Due to appellant-wife indicating a balance of \$5,895.92 and requested payment by October 16, 2018. FTB began collection actions and imposed a collection cost recovery fee of \$317. FTB received the payments of \$1,351.68 on May 29, 2019, \$1,351.68 on June 12, 2019, \$1,443.63 on June 26, 2019, \$1,465.69 on July 10, 2019, and \$750.06 on July 29, 2019.
5. Appellants jointly filed an untimely 2016 return on October 26, 2022, and claimed a refund of \$1,001.<sup>1</sup> On December 2, 2022, FTB transferred a credit of \$50.04 from their 2017 tax account to their 2016 tax liability.
6. FTB processed appellants' return and issued a refund \$50.17 to appellants on January 27, 2023.<sup>2</sup> On February 2, 2023, FTB denied the remainder of the claimed refund in the amount of \$4,815.59 due to the expiration of the statute of limitations.
7. On or about April 17, 2023, appellants executed their timely Request for Appeal. Together with appellants' Request for Appeal, appellant-wife submitted her Innocent Joint Filer Relief Request for the 2016 tax year.

### DISCUSSION

Issue 1: Whether the statute of limitations bars appellants' claim for refund for the 2016 tax year.

R&TC section 19306 sets forth the 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; (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 taxpayer has the burden of proving

---

<sup>1</sup> The total refund in dispute in this appeal includes not only the \$1001 claimed on the untimely 2016 return, but also the payments received by the FTB through collection action.

<sup>2</sup> This amount is comprised of \$50.04, the amount of overpayment that was received as a credit transfer from appellants' 2017 tax year account on December 2, 2022, and \$0.13 of accrued interest.

entitlement to a refund and showing that the claim 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.) A taxpayer's failure to file a claim for refund, for whatever reason, within the statutory period bars the taxpayer from doing so at a later date, 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.*)

Here, appellants failed to timely file their 2016 return. For the 2016 tax year, the four-year statute of limitations expired on May 17, 2021.<sup>3</sup> (R&TC, § 19306(a).) On October 26, 2022, appellants filed their 2016 tax return, which FTB treated as a claim for refund; and is thus after the expiration of the four-year statute of limitations period.

The alternative one-year statute of limitation applies only to payments made within one year of the date the claim for refund is filed. (R&TC, § 19306(a).) On December 2, 2022, FTB received a payment of \$50.17 from appellants' 2017 tax year account that was credited towards their 2016 tax year account. Appellants' remaining payments were made more than one year before the claim for refund was filed and are barred under the one-year statute of limitations.

The running of the statute of limitations, however, may be suspended during any period where a taxpayer is "financially disabled." A taxpayer is financially disabled if 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)(1).) A taxpayer shall not be considered financially disabled for any period during which that taxpayer's spouse or any other person is legally authorized to act on that individual's behalf in financial matters. (R&TC, § 19316(b)(2).) To prove financial disability, a taxpayer must provide a physician's affidavit which identifies the disability period when the taxpayer was unable to manage his or her financial affairs. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

---

<sup>3</sup> FTB postponed the date for individual taxpayers to file a claim for refund for the 2016 tax year from April 15, 2021 to May 17, 2021, because of COVID-19. (See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2021-04-state-postpones-deadline-for-claiming-2016-tax-refunds-to-may-17-2021.html>.)

Appellants contend that appellant-husband was responsible for filing taxes. Appellants state that due to his current illness, he is unable to prepare their tax returns. To the extent that appellants contend that one spouse was ill which prevented them from filing a timely tax return (i.e. the refund claim earlier), appellants have not supported this contention with documentary or other evidence. As such, appellants have not established they were financially disabled. Therefore, the statute of limitations may not be suspended.

Issue 2: Whether appellant-wife has established that she is entitled to innocent spouse relief for the 2016 tax year.

When a joint return is filed, each individual who signed the return is jointly and severally liable for the tax liability. (R&TC, § 19006; IRC, § 6013(d)(3).) The entire amount of tax due may be collected from either or both persons filing the return. (*Murchison v. Murchison* (1963) 219 Cal.App.2d 600, 604.) Federal and California law each provide that an individual who files a joint return may be relieved of all or a portion of such joint and several liability if the individual qualifies as an innocent spouse. (R&TC, §§ 18533, 19006; IRC, § 6015.)

A claim for innocent spouse relief for fully paid tax years may be treated as a claim for refund. (R&TC, §18533(e)(1)(B)(3)(A); *Choate v. United States* (S.D. Cal. 2003) 218 F.R.D. 677, 679.) As relevant to this appeal, if innocent spouse relief is granted pursuant to R&TC section 18533, a credit or refund shall be allowed so long as the request for relief is made within the statute of limitations provided in R&TC section 19306. (R&TC, § 18533(e)(1)(B)(3)(A).) As discussed above, R&TC section 19306 generally provides that the last day to file a claim for refund is the latter of either (a) four years from the due date of the return, without regard to extensions, or (b) one year from the date of the overpayment.


Here, there is no outstanding tax liability for the 2016 tax year. As such, appellant-wife's request for innocent spouse relief may be treated as a claim for refund. However, appellant-wife submitted her innocent spouse relief request on or about April 17, 2023, which is well after the statute of limitations periods had expired. Since appellant-wife is precluded from a credit or refund based on the statute of limitations, OTA need not address whether innocent spouse relief is warranted.

HOLDINGS


1. The statute of limitations bars appellants’ claim for refund for the 2016 tax year.
2. The statute of limitations also bars appellants’ claims for refund based on innocent spouse relief.


DISPOSITION

FTB’s action denying appellants’ claim for refund for the 2016 tax year is sustained.

DocuSigned by:  
  
 48745BB806914B4...  
 Josh Aldrich  
 Administrative Law Judge

We concur:

DocuSigned by:  
  
 6CC6C0ACCC8A44D...  
 Teresa A. Stanley  
 Administrative Law Judge

DocuSigned by:  
  
 7B17E958B7C14AC...  
 Amanda Vassigh  
 Administrative Law Judge

Date Issued: 2/12/2025