

- 2017 California tax return or a protest. FTB did not receive a 2017 tax return or a protest within the specified time. The NPA became final.
4. On August 8, 2022, appellants filed a joint 2017 California Resident Income Tax Return (Return). Appellants reported a total tax of \$2,623, and California income tax withholding of \$2,446, resulting in a balance due of \$177.
 5. FTB processed the Return and treated it as a claim for refund. Thereafter, FTB determined that appellants had an overpayment of \$21,027.23, but denied their claim for refund because it was filed outside of the statute of limitations.
 6. This timely appeal followed.
 7. On appeal, appellants submit page two of Form 1564 Physician Affidavit of Physical or Mental Impairment with the patient or taxpayer information left blank, but with a medical doctor signature purporting to establish that appellant-husband is impaired from managing his financial affairs during the disability period from April 2018 to 2021. Appellants did not submit page one of Form 1564 Financially Disabled – Suspension of the Statute of Limitations. Page one of Form 1564 requests information about: (1) the period in which the individual was financially disabled; (2) persons legally authorized to act on the individual’s behalf; and (3) whether a request with the IRS was made on the same basis.

DISCUSSION

If it is determined that there has been an overpayment of any liability imposed under the Personal Income Tax Law by a taxpayer for any year for any reason, the amount of the overpayment may be credited against any amount due from the taxpayer and the balance shall be refunded to the taxpayer. (R&TC, § 19301(a).) The taxpayer bears the burden of proving entitlement to any refund. (*Appeal of Cornbleth*, 2019-OTA-408P.) R&TC section 19306 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.) The language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*)

It is undisputed that appellant did not file a timely 2017 Return. Accordingly, the first four-year statute of limitations period is inapplicable. The second statute of limitations period expired four years from the due date for filing the 2017 tax return, on April 15, 2022. Appellants claim for refund is untimely because appellants did not file a claim for refund until August 8, 2022. Lastly, the one-year statute of limitations period expired one year from the date of overpayment. Here, appellants' return payment of \$21,244.23 was paid on April 15, 2018.¹ Therefore, appellants had until April 15, 2019, to file a claim for refund. Appellants claim for refund is untimely because they did not file the claim until August 8, 2022. Appellants' claim for refund is properly barred under the statute of limitations.

There is a limited basis for suspending the statute of limitations when an individual taxpayer establishes that he or she was "financially disabled," as defined in R&TC section 19316. An individual taxpayer is considered financially disabled if: (1) 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; and (2) there is no spouse or other legally authorized person to act on the individual taxpayer's behalf in financial matters. (R&TC, § 19316(b)(1)-(2).) To suspend the statute of limitations, the period of financial disability must occur during the limitations period. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Here, appellants argue that they could not file their joint 2017 Return until appellant-husband's business tax returns were completed when appellant-husband was financially disabled. Additionally, appellants argue that appellant-wife, who was not financially disabled,² did not partake in any of appellant-husband's business and lacked the authorization to complete appellant-husband's business tax returns. Therefore, since the completion of the business tax returns and the appellants' joint 2017 Return depended on each other, appellants were unable to file their 2017 Return on time.

However, appellants have not furnished the necessary proof in the form and manner required by the FTB to claim financial disability. The California Legislature granted FTB the authority to establish procedures to determine whether a taxpayer is financially disabled. The

¹ Appellants' withholding payment is deemed to also have been paid on April 15, 2018, pursuant to R&TC section 19002(c)(1).

² Appellants do not argue and evidence in the record does not show that the appellant-wife is financially disabled for purposes of R&TC section 19316.

financial disability of an individual taxpayer shall be established in accordance with those procedures and requirements specified by FTB. (R&TC, § 19316(a).) Form 1564 was specifically created by FTB for this purpose. Here, appellants submitted an incomplete page two of Form 1564 Physician Affidavit of Physical or Mental Impairment with a medical doctor's signature, purportedly establishing that the appellant-husband is impaired from managing his financial affairs during the disability period from April 2018 to 2021. However, the patient or taxpayer information was left blank at the top of page two of Form 1564. Appellants also did not submit page one of Form 1564 Financially Disabled – Suspension of the Statute of Limitations and failed to identify the: (1) the period when appellant-husband was financially disabled; (2) spouse/registered domestic partner or any other persons who were legally authorized to act on his or her behalf in financial matters; and (3) whether the appellant-husband made a request with the IRS on the same basis. Therefore, appellants did not meet their burden of proof to establish that appellant-husband is financially disabled.

Additionally, the fact that the appellant-wife did not partake in appellant-husband's businesses, does not change the application of the plain language of the statute, which requires that no spouse or any other person is legally authorized to act on the individual taxpayer's behalf in financial matters. (R&TC, § 19316(b).) While appellants' tax information may have been difficult to obtain, there is no reasonable cause or equitable tolling of the statute of limitations to file a claim for refund. (*Appeal of Estate of Gillespie, supra.*) Appellants' personal circumstances are unfortunate, but they are not legally sufficient to toll the statute of limitations. Thus, appellants' claim for refund is time-barred by the statute of limitations.

HOLDING

The statute of limitations bars appellants' claim for refund for the 2017 tax year.

DISPOSITION

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

DocuSigned by:
Eddy Y. H. Lam
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Eddy Y.H. Lam
Administrative Law Judge

We concur:

DocuSigned by:
Lissett Cerrantes
220FE53020BE441

For
Natasha Ralston
Administrative Law Judge

DocuSigned by:
Veronica I. Long
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Veronica I. Long
Administrative Law Judge

Date Issued: 7/25/2024