

3. This timely appeal followed.
4. On appeal, appellant provided a signed form FTB 1564 — Physical Affidavit of Physical or Mental Impairment — and was sworn in as a witness during the oral hearing.
5. On the form FTB 1564, dated May 22, 2024, the signing physician stated that appellant's impairment was not expected to result in death; that the impairment did not last, and was not expected to last, for a continuous period of at least 12 months; and identified November 4, 2019, through January 10, 2020, as the disability period when appellant was unable to manage his financial affairs.

DISCUSSION

The statute of limitations to file a claim for refund is set forth in R&TC section 19306.¹ R&TC section 19306(a) provides 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 (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. For purposes of R&TC section 19306, amounts withheld are deemed to be paid on the original return due date. (R&TC, § 19002(c)(1).) The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (Cal. Code Regs., tit. 18, § 30219(a)-(b); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The language of R&TC section 19306 is explicit and must be strictly construed. (*Appeal of Cornbleth*, 2019-OTA-408P.) Absent an exception, a taxpayer's untimely filing of a claim for any reason bars a refund.² (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) There is generally no reasonable cause or equitable basis for suspending the statute of limitations. (*Ibid.*) The statute of limitations bars an untimely claim for refund even when it is shown that the tax was not owed in the first instance. (See *U.S. v. Dalm* (1990) 494 U.S. 596, 602.) Fixed deadlines may appear harsh because they can be missed; however, the resulting occasional harshness is redeemed by the clarity imparted. (*Prussner v. U.S.* (7th Cir. 1990) 896 F.2d 218,

¹ As OTA noted during the hearing, FTB is subject to statute of limitations to issue an assessment for additional taxes, penalties, or fees. Generally, FTB must issue the assessment within four years from the date the taxpayer filed their return, or the original due date of the return, whichever is later. (R&TC, §§ 19057, 19066.)

² It is incumbent upon the taxpayer to file a claim for refund within the specified time limit. FTB has no obligation to discover or inform a taxpayer of any overpayment. (*Appeal of Cervantes* (74-SBE-029) 1974 WL 2844.) Nor does the law require FTB to notify a taxpayer of the time in which to file a refund claim. (*Appeal of F.D. Shagets* (82-SBE-170) 1982 WL 11847.)

222-223.) A statute of limitations promotes fairness and practicality in the administration of an income tax policy. (*Rothensies v. Electric Storage Battery Co.* (1946) 329 U.S. 296, 301.)

Appellant's 2018 tax return, which was untimely filed on April 10, 2024, is treated as appellant's claim for refund. The applicable four-year statute of limitations period for appellant's 2018 refund claim expired on April 15, 2023, which is four years from the original due date of the return (i.e., April 15, 2019), but was extended to November 16, 2023, due to the California winter storms.³ Under the one-year statute of limitations period, appellant was required to file a refund claim no later than April 15, 2020, which is one year from the deemed payment date of appellant's withholdings. (R&TC, § 19002(c).)

Appellant does not dispute that the refund claim is untimely. Rather, appellant asks that the claim nevertheless be granted due to various personal and financial hardships, including financial disability.

There is no reasonable cause or equitable basis for suspending the statute of limitations, such as due to financial hardship. (See *Appeal of Benemi Partners, L.P.*, *supra.*) However, the running of any period under R&TC section 19306 may be suspended while an individual taxpayer is "financially disabled," as defined in R&TC section 19316. An individual taxpayer is "financially disabled" if: (1) the taxpayer is unable to manage his or her 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*, *supra.*) When a taxpayer alleges financial disability to suspend the limitations period, the taxpayer must provide an affidavit from the taxpayer's treating physician that identifies the disability period when the taxpayer was unable to manage their financial affairs. (*Appeal of Estate of Gillespie*, *supra.*) The period of financial disability must occur during the applicable statute of limitations period. (*Ibid.*)

There does not appear to be any dispute that the period of appellant's financial disability occurred during the applicable statute of limitations. However, pursuant to R&TC section 19316, the impairment must be deemed terminal or expected to last for a continuous period of not less than 12 months. Here, appellant's physician stated on the form FTB 1564 that the impairment was not deemed terminal, nor expected to last for a continuous period of at least

³ FTB extended the deadline for claiming 2018 refunds to November 16, 2023, due to the California winter storms; however, the extension has no impact here since November 16, 2023, predates April 10, 2024. (See Treas. Reg. § 301.7508A-1(c)(1)(v); see also Notices CA-2023-01, CA-2023-02.)

12 months. Rather, the physician identified appellant's disability period as November 4, 2019, through January 10, 2020, a period of less than three months. Therefore, appellant has not demonstrated that he meets the requirements to have the statute of limitations suspended based on financial disability.

Although OTA is sympathetic to the situation described by appellant, OTA lacks the authority to grant appellant's untimely refund claim. The statute of limitations for filing a refund claim must be strictly construed, even if the tax was not owed in the first place. (*Appeal of Cornbleth, supra.*) Absent a legislatively enacted exception to the statute of limitations, OTA does not have the authority to suspend the statute of limitations to achieve a more equitable result for taxpayers or to avoid a seemingly harsh outcome. (*Appeal of Estate of Gillespie, supra.*) Thus, OTA is unable to provide the relief appellant seeks.

HOLDING

Appellant's claim for refund for the 2018 tax year is barred by the statute of limitations.

DISPOSITION

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

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Sheriene Anne Ridenour

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Sheriene Anne Ridenour
Administrative Law Judge

Date Issued: 4/10/2025