

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
P. COLLINS) OTA Case No. 240616464
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OPINION

Representing the Parties:

For Appellant: P. Collins

For Respondent: David C. Cortez, Program Analyst

For Office of Tax Appeals: Nguyen Dang, Attorney

K. GAST, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, P. Collins (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$19,749.99¹ for the 2016 tax year.

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellant is entitled to a refund or credit of appellant’s overpayment for the 2016 tax year.

¹ The amount at issue is slightly less than the amount stated on FTB’s claim denial notice, which included a write-off (i.e., the write-off is not a payment that can be credited or refunded to appellant).

FACTUAL FINDINGS

1. On February 26, 2024, appellant late filed appellant's 2016 California income tax return (Return) requesting a refund of the reported \$20,066 overpayment.
2. FTB processed the Return and computed an overpayment of \$19,749.99.
3. FTB did not refund or credit appellant's overpayment because the Return was filed outside the limitation period for making a refund claim.
4. FTB issued a claim denial notice from which appellant timely appeals.

DISCUSSION

Appellant does not dispute FTB's calculation of the overpayment or that appellant's refund claim was untimely.² Instead, appellant asks that the claim be granted due to the passing of appellant's tax return preparer and other various personal hardships.

The statute of limitations for filing a refund claim must be strictly construed; in other words, a taxpayer's untimely filing of a refund claim for *any reason* bars a refund. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This is true even if the tax was not owed in the first place. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

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 contains a description of the taxpayer's physical or mental impairment and the period of disability. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

To the extent appellant argues the statute of limitations should be suspended due to financial disability, appellant has not provided the requisite physician's affidavit.³ Appellant's

² The law generally requires that taxpayers file their refund claims by the later of: (1) four years from the date the return is filed, if filed on or before the extended due date; (2) four years from the due date of the return without regard to any extensions; or (3) one year from the date of overpayment. (R&TC, § 19306(a).)

³ During briefing, FTB provided appellant with a copy of this form and its instructions.

failure to establish financial disability for any period prior to the filing of appellant’s refund claim means that it is untimely. Absent a legislatively enacted exception to the statute of limitations, OTA does not have the authority to grant an untimely refund claim to achieve a more equitable result for taxpayers or to avoid a seemingly harsh outcome. (*Appeal of Estate of Gillespie, supra.*) Thus, while OTA is sympathetic to the situation described by appellant, OTA is unable to provide the relief appellant seeks.

HOLDING

Appellant is not entitled to a refund or credit of appellant’s overpayment for the 2016 tax year.

DISPOSITION

FTB’s action is sustained.

DocuSigned by:
Kenneth Gast
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Kenneth Gast
Administrative Law Judge

We concur:

DocuSigned by:
Sara A. Hosey
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Sara A. Hosey
Administrative Law Judge

Signed by:
Veronica I. Long
32D46B0C40C049F...
Veronica I. Long
Administrative Law Judge

Date Issued: 3/19/2025