

In the Matter of the Appeal of:) OTA Case No. 240215450
G. HEFLIN)
))
))
))
))

1. On April 15, 2018, appellant made an extension payment and had withholdings effective on that date for the 2017 tax year.
2. On April 15, 2019, appellant made an extension payment and had withholdings effective on that date for the 2018 tax year.
3. On October 15, 2023, respondent received appellant's late-filed California income tax returns (Returns) for the 2017 and 2018 tax years reporting overpaid tax for each year.
4. Respondent processed appellants' Returns and treated the Returns as claims for refund in the amounts of \$1,778 and \$747.18, respectively.

5. Respondent issued appellant claim denial notices denying appellant's claims for refund for the 2017 and 2018 tax years due to the expiration of the statute of limitations.
6. This timely appeal followed.

DISCUSSION

Appellant argues that the refund claims should be granted because they were filed within the extended statute of limitations period due to federal adjustments. When a change or correction is made or allowed by the IRS, a taxpayer may file a claim for refund with respondent within two years of the final federal determination. (R&TC, § 19311(a).) Appellant provides correspondence, dated December 11, 2023, from the IRS, indicating that a refund was issued to him for the 2017 tax year. However, the federal account transcripts on record show that this was simply a refund, and that no beneficial adjustments were made by the IRS to appellant's 2017 and 2018 federal tax liabilities following appellant's filing of his 2017 and 2018 federal Returns on October 19, 2023, and December 25, 2023, respectively. Therefore, the two-year statute of limitations under R&TC section 19311 does not apply. Instead, the general statute of limitations for claims for refund pursuant to R&TC section 19306 is applicable here.

R&TC section 19306(a) provides that no credit or refund shall be allowed unless a claim for refund is filed within: (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 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 overpayment. The taxpayer has the burden of proving entitlement to a refund claim and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Here, appellant's 2017 and 2018 Returns were filed late on October 15, 2023. The applicable four-year statute of limitations period for appellants' 2017 and 2018 claims for refund, expired on April 15, 2022, and April 15, 2023, respectively, four years from the original due date of appellant's 2017 and 2018 Returns. Since appellant's October 15, 2023, refund claims for the 2017 and 2018 tax years were filed after the April 15, 2022, and April 15, 2023 deadlines, ordinarily they would be untimely under the applicable four-year limitation period.

However, due to the 2023 California winter storms, the IRS granted affected taxpayers until November 16, 2023, to perform time-sensitive actions described in Treasury Regulation section 301.7508A-1(c)(1), which expressly includes filing a claim for credit or refund of any

tax.¹ (Treas. Reg. § 301.7508A-1(c)(1)(v).) The postponement relates to certain deadlines falling on or after January 8, 2023, through November 16, 2023, and applies to “individuals and households affected by severe winter storms, flooding, and mudslides that reside or have a business” in certain California counties.² In a news release, respondent stated that it was conforming with this IRS disaster relief, which postponed the four-year statute of limitations to timely file a claim for refund to November 16, 2023.³ Respondent also stated that it “generally conforms to the IRS postponement periods for presidentially declared disasters.”⁴ Since the four-year statute of limitations period for appellant to file a 2018 claim for refund expired on April 15, 2023, which was during the 2023 winter storm postponement period (i.e., the period running from January 8, 2023, through November 1, 2023), the deadline to file was postponed to November 16, 2023. Therefore, appellant’s 2018 claim for refund filed on October 15, 2023, was timely.

This postponement does not apply to the 2017 claim for refund, since the four-year statute of limitations period for that tax year expired on April 15, 2022, which was before the beginning of the applicable postponement period on January 8, 2023. Thus, a refund can only be granted for appellant’s 2017 tax year if appellant’s claim for refund for the 2017 tax year was timely under the one-year statute of limitations period.

The one-year statute of limitations period begins to run from the date of payment. (R&TC, § 19306(a).) Appellants’ withholdings are deemed paid on the original due date of the return. (R&TC, § 19002(c)(1).) For the 2017 tax year, this would be April 15, 2018. (R&TC, § 18566.) Appellant also made an extension payment for the 2017 tax year on April 15, 2018.

¹ IRS issued Notices CA-2023-01 and CA-2023-02, initially granting affected taxpayers until May 15, 2023, to perform certain actions described above. This May 15, 2023, deadline was later extended to October 16, 2023, and subsequently to November 16, 2023. (See IR-2023-189, Oct. 16, 2023, available at: www.irs.gov/newsroom/for-california-storm-victims-irs-postpones-tax-filing-and-tax-payment-deadline-to-nov-16.)

² Counties qualifying for relief include San Diego County, where appellant resided according to his 2018 Return. (See www.irs.gov/newsroom/irs-announces-tax-relief-for-victims-of-severe-winter-storms-flooding-and-mudslides-in-california.)

³ See www.ftb.ca.gov/about-ftb/newsroom/news-releases/10-16-extended-tax-deadline.html; see also www.ftb.ca.gov/about-ftb/newsroom/news-releases/2023-10-due-date-for-tax-returns-payments-moved.html.

⁴ Respondent’s authority to grant state of emergency postponements for tax-related acts is found in R&TC section 18572(b), which adopts Internal Revenue Code (IRC) section 7508A. (See also *Appeal of Bannon*, 2023-OTA-096P.) When applying the IRC for purposes of California personal income tax, IRS Treasury Regulations shall be applicable to the extent that they do not conflict with California personal income tax code sections or regulations. (R&TC, § 17024.5; *ibid.*)

Appellant, therefore, had one year from April 15, 2018, to file a refund claim. (*Ibid.*) Appellant's 2017 claim for refund was not filed until October 15, 2023, and therefore, is also untimely under the one-year statute of limitations period.

Appellant argues that the 2017 refund claim should be granted due to health issues that prevented the timely filing of the claim. The running of the statute of limitations 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, supra.*)

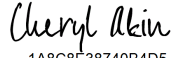
Here, appellant has not provided the requisite physician's affidavit to establish financial disability for tolling the statute of limitations. Appellant's failure to establish financial disability for any period prior to the filing of appellant's refund claims means that such claims are untimely. Absent 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 appellant's situation, OTA is unable to provide the relief appellant seeks.

HOLDING

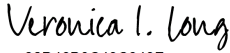
Appellant's refund claim for the 2017 tax year is untimely. Appellant's refund claim for the 2018 tax year is timely pursuant to the California severe winter storm postponement.

DISPOSITION

Respondent's action denying appellant's 2017 claim for refund is affirmed.
Respondent's action denying appellant's 2018 claim for refund is reversed.

DocuSigned by:

1A8C8E38740B4D5...
Cheryl L. Akin
Administrative Law Judge

We concur:

Signed by:

32B46B8C40C040F...
Veronica I. Long
Administrative Law Judge

DocuSigned by:

6D3FE4A0CA514E7...
Sara A. Hosey
Administrative Law Judge

Date Issued: 3/11/2025