

In the Matter of the Appeal of:) OTA Case No. 240917487
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1. Appellant did not file timely California income tax returns for the 2017 or 2018 tax years.
2. On September 17, 2019, FTB sent appellant a Request for Tax Return (Request) because FTB received information that indicated appellant may have a filing requirement for the 2017 tax year. Appellant did not respond to the Request.
3. On November 25, 2019, FTB sent appellant a Notice of Proposed Assessment (NPA) for the 2017 tax year that proposed tax of \$760, a late filing penalty of \$190, and interest of \$76.46, for an amount due of \$1,026.46.

4. On November 24, 2020, FTB sent appellant a Demand for Tax Return (Demand) because FTB received information that indicated appellant may have a filing requirement for the 2018 tax year. Appellant did not respond to the Demand.
5. On February 19, 2021, FTB sent appellant an NPA for the 2018 tax year that proposed tax of \$5,924, a late filing penalty of \$1,481, a demand penalty of \$1,481, a filing enforcement fee of \$97, and interest of \$736.03, for an amount due of \$9,719.03.
6. For the 2017 tax year, FTB commenced collection action and received the following payments: (1) \$50 on April 1, 2021; and (2) \$1,412.74 on November 5, 2021.
7. For the 2018 tax year, FTB commenced collection action and received a \$9,910.83 payment on November 5, 2021.
8. On April 30, 2024, appellant filed a 2017 California Resident Income Tax Return (CA return) reporting total tax of \$158. FTB accepted the return and treated it as a claim for refund of \$770.17.¹
9. On April 30, 2024, appellant filed a 2018 CA return reporting total tax of \$635, and an underpayment of estimated tax penalty of \$15. FTB accepted the return and treated it as a claim for refund of \$8,775.44.²
10. On June 18, 2024, FTB sent Statute of Limitations letters denying appellant's claims for refund for the 2017 and 2018 tax years due to the expiration of the statute of limitations.
11. This timely appeal followed.

DISCUSSION

Generally, 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 last date prescribed 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(a).) The taxpayer has the burden of proving that the claim for refund was timely and that the taxpayer is entitled to the refund. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

¹ This amount is comprised of the total payments FTB collected for the 2017 tax year of \$1,462.74 (\$50 + \$1,412.74) less appellant's reported total tax of \$158, a late filing penalty of \$135, an installment agreement fee of \$34, a collection cost fee of \$316, and interest of \$49.57.

² This amount is comprised of the total payment FTB collected for the 2018 year of \$9,910.83, plus an unidentified credit of \$15.21, less appellant's reported total tax of \$635, a late filing penalty of \$158.75, a demand penalty of \$158.75, a filing enforcement fee of \$97, and interest of \$101.10.

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 exception or equitable basis for suspending the statute of limitations. (*Ibid.*) A taxpayer's untimely filing of a claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) This is true even when it is later shown that the tax was not owed in the first place. (*Appeal of Jacqueline Mairghread Patterson Trust*, 2021-OTA-187P.) The time for filing a claim for refund may be suspended during the period in which the taxpayer is financially disabled, as defined by R&TC section 19316(b). (R&TC, § 19316(a).) A taxpayer is considered financially disabled if: (1) the individual taxpayer 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 taxpayer's behalf in financial matters. (R&TC, § 19316(b)(1) & (2).) While the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Appeal of Benemi Partners, L.P.*, *supra.*)

Appellant did not timely file 2017 and 2018 CA returns within the extension period. Accordingly, the first four-year statute of limitations period is not applicable. The second four-year statute of limitations period expired on April 15, 2022, for the 2017 return, and April 15, 2023, for the 2018 return, since the returns were originally due on April 15, 2018, and April 15, 2019, respectively. (R&TC, §§ 18566, 19306(a).) Appellant filed her CA returns on April 30, 2024, which FTB accepted as claims for refund. This was more than two years after the expiration of the four-year statute of limitations period on April 15, 2022, for the 2017 claim for refund, and one year after the expiration of the four-year statute of limitations period on April 15, 2023, for the 2018 claim for refund. Therefore, appellant's claims for refund are untimely under the four-year statute of limitations.

The one-year statute of limitations period runs one year from the date of payment. FTB received payments through collection actions of \$50 on April 1, 2021, and \$1,412.74 and \$9,910.83 on November 5, 2021. The one-year statute of limitations period for these payments expired one year later on April 1, 2022, and November 5, 2022, respectively. As such, appellant's claims for refund dated April 15, 2024, were beyond the one-year statute of limitations period for these payments and are accordingly barred.

Appellant contends that medical circumstances prevented the timely filing of the 2017 and 2018 CA returns, and therefore the claims for refund should be granted based on reasonable cause. As stated above, there is no reasonable cause exception for suspending the

statute of limitations and generally neither appellant's ill health nor any other unfortunate circumstance can extend the statute of limitations for filing a claim for refund. (*Appeal of Estate of Gillespie, supra.*)

While California law does not permit equitable tolling of the statute of limitations for filing a refund claim, the law provides a narrow exception for individuals determined to be "financially disabled." On appeal, FTB provided appellant an opportunity to submit Form FTB 1564, *Financially Disabled – Suspension of the Statute of Limitations*, which includes instructions and necessary forms for establishing financial disability. Appellant failed to submit the information necessary to substantiate financial disability. Because the record has no evidence of financial disability, relief under R&TC section 19316 is not available.

As explained above, a claim for refund that is filed after the expiration of the statute of limitations is statutorily barred. Appellant has not provided any legal basis to suspend the statute of limitations. Therefore, appellant's claims for refund are barred.

HOLDING

Appellant's claims for refund for the 2017 and 2018 tax years are barred by the statute of limitations.

DISPOSITION

FTB's actions denying appellant's claims for refund are sustained.

Signed by:

Kim Wilson

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Kim Wilson
Hearing Officer

We concur:

DocuSigned by:

Erica Parker

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Erica Parker
Hearing Officer

DocuSigned by:

Kenneth Gast

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Kenneth Gast
Administrative Law Judge

Date Issued: 6/27/2025