

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: )  
**G. GATEL** ) OTA Case No. 240716623  
 )  
 )  
 )  
 )

---

**OPINION**

Representing the Parties:

For Appellant: G. Gatel  
For Respondent: Ganeet Atwaal, Legal Analyst

J. LAMBERT, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, G. Gatel (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant’s claims for refund of \$53,938.58, \$41,193.05, and \$194.76 for the 2016, 2017, and 2019 tax years, respectively.

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

**ISSUE**

Whether appellant’s claims for refund for the 2016, 2017, and 2019 tax years are barred by the statute of limitations.

**FACTUAL FINDINGS**

1. FTB received information that appellant earned income sufficient to have a filing requirement for 2016, 2017, and 2019. Because appellant did not file tax returns for 2016, 2017, and 2019, FTB issued a Demand for Tax Return for each of those tax years.
2. After no response was received, FTB issued Notices of Proposed Assessment (NPAs) for the 2016, 2017, and 2019 tax years, each of which proposed tax, penalties, a fee, and interest. The NPAs went final, and FTB commenced involuntary collection action.
3. Appellant filed his 2019 California tax return on May 28, 2024. Appellant filed his 2016 and 2017 California tax returns on May 30, 2024. Each return reported \$0 total tax.

4. FTB accepted the returns and abated the penalties.
5. FTB treated the returns as claims for refund, which it denied in the amounts of \$53,938.58, \$41,193.05, and \$194.76 for the 2016, 2017, and 2019 tax years, respectively.

#### DISCUSSION

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 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).) In an action for refund, taxpayers have the burden of proof to show that a refund is warranted and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellant does not dispute that the claims for refund are barred by the statute of limitations. Instead, appellant asserts that he suffered from various hardships, which was the reason for the late filings. The law does not provide for the suspension of the statutory period based on reasonable cause or extenuating circumstances. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of R&TC section 19306 is explicit and must be strictly construed, without exception. (*Ibid.*) However, the time for filing a claim for refund may be extended if an individual taxpayer is “financially disabled,” meaning 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(a), (b); *Appeal of Estate of Gillespie, supra.*) A physician’s affidavit must be provided that identifies the disability period when the taxpayer was unable to manage his or her financial affairs. (*Appeal of Estate of Gillespie, supra.*) Appellant does not provide any evidence, including a physician’s affidavit, to show that he was financially disabled, even though he was requested to do so by FTB.


Appellant also contends that the calculations of the original assessments are unreasonable. However, 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. (*Appeal of Benemi Partners, L.P., supra.*)

HOLDING


Appellant's claims for refund for the 2016, 2017, and 2019 tax years are barred by the statute of limitations.


DISPOSITION

FTB's actions are sustained.

Signed by:  
  
CB1F7DA37831416...  
\_\_\_\_\_  
Josh Lambert  
Administrative Law Judge

We concur:

Signed by:  
  
32D46B0C40G049F...  
\_\_\_\_\_  
Veronica I. Long  
Administrative Law Judge

DocuSigned by:  
  
0CC6C6ACCC6A44D...  
\_\_\_\_\_  
Teresa A. Stanley  
Administrative Law Judge

Date Issued: 9/4/2025