

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

In the Matter of the Appeal of:	)	OTA Case No. 240817084
<b>ESTATE OF C. KOVAN (DEC'D)</b>	)	
	)	
	)	
	)	

---

**OPINION**

Representing the Parties:

For Appellant:	Marc Kovan, Administrator
----------------	---------------------------

For Respondent:	Paige Chang, Attorney
-----------------	-----------------------

For Office of Tax Appeals:	Robert W. J. Heaven, Graduate Student Assistant
----------------------------	---

A. KLETTER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) 19324, Estate of C. Kovan (dec'd) (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$5,720 for the 2018 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 the statute of limitations bars appellant's claim for refund for the 2018 tax year.

**FACTUAL FINDINGS**

1. Prior to C. Kovan's death in March 2023, he did not file a timely California income tax return for the 2018 tax year.
2. FTB obtained information indicating that C. Kovan received income sufficient to prompt a filing requirement for the 2018 tax year but had not filed a return. FTB issued C. Kovan a Request for Tax Return for the 2018 tax year. C. Kovan did not respond.
3. On October 16, 2020, FTB issued C. Kovan a Notice of Proposed Assessment (NPA) for the 2018 tax year, which estimated C. Kovan's taxable income and proposed to assess tax, penalties, and interest.
4. C. Kovan did not timely protest the NPA, and so the liability became due and collectible.

5. FTB initiated collection action. On April 7, 2021, FTB received two separate payments from C. Kovan of \$29 and \$3,740.
6. C. Kovan passed away on March 17, 2023.
7. On June 23, 2023, Marc Kovan was appointed administrator of C. Kovan's estate.
8. On June 18, 2024, appellant filed an untimely return for the 2018 tax year, which requested a refund of \$1,951.
9. FTB treated appellant's return as a claim for refund and determined an overpayment of \$5,720.<sup>1</sup> In a Statute of Limitations notice dated July 9, 2024, FTB denied appellant's claim for refund.
10. This timely appeal followed.

### DISCUSSION

Appellant does not dispute that its claim for refund was untimely.<sup>2</sup> However, appellant asserts that: C. Kovan suffered from a medical condition and was incapacitated; C. Kovan's representative did not fulfill his responsibilities as power of attorney during C. Kovan's incapacitation and did not perform due diligence by timely filing C. Kovan's income tax return for the 2018 tax year; and that appellant's administrator only recently was able to obtain records. Considering the foregoing circumstances, appellant requests that its refund claim be granted.

There is generally no reasonable cause or equitable basis for suspending the statute of limitations for making a refund claim. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This means that absent an exception, a taxpayer's untimely filing of a refund claim for any reason bars a refund. (*Ibid.*) The statute of limitations bars an untimely claim for refund even if the tax is alleged to have been erroneously, illegally or wrongfully collected, or when it is later shown that 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.*)

R&TC section 19316(a) provides a narrow exception for suspending the statute of limitations during the period in which an individual taxpayer is financially disabled (as defined in R&TC section 19316(b)) if the taxpayer can establish such financial disability in accordance with the procedures and requirements specified by FTB. Pursuant to R&TC section 19316(b), a taxpayer is considered "financially disabled" if: (1) the taxpayer is unable to manage his or her

---

<sup>1</sup> Appellant's return did not include C. Kovan's two payments made on April 7, 2021.

<sup>2</sup> The law generally requires that a taxpayer file his or her refund claim 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).)

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 during the relevant period. FTB imposes the additional requirement that a taxpayer submit an affidavit from a physician that identifies the period during which the taxpayer's impairment rendered the taxpayer incapable of managing his or her financial affairs. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) The taxpayer bears the burden of proving entitlement to any refund. (*Appeal of Cornbleth*, 2019-OTA-408P.)


Although OTA is sympathetic to the situation presented here, appellant has provided neither the requisite affidavit from C. Kovan's physician, nor sufficient information to establish the period during which C. Kovan was incapable of managing his financial affairs. Therefore, appellant has failed to substantiate that C. Kovan was financially disabled in accordance with the procedures and requirements specified by FTB. Consequently, OTA cannot suspend the statute of limitations.

#### HOLDING

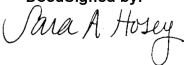
The statute of limitations bars appellant's claim for refund for the 2018 tax year.

#### DISPOSITION

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

DocuSigned by:  
  
D17AEDDCAAB045B...  
Asaf Kletter  
Administrative Law Judge

We concur:

DocuSigned by:  
  
6D3FE4A0CA514E7...  
Sara A. Hosey  
Administrative Law Judge

DocuSigned by:  
  
6651E0AAC34B4F6...  
Erica Parker  
Hearing Officer

Date Issued: 6/4/2025