

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
C. STRICKLAND) OTA Case No. 230713753
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OPINION

Representing the Parties:

For Appellant: C. Strickland

For Respondent: Vivian Ho, Attorney

S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Strickland (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$3,359.32 for the 2015 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05(b).)

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 has established financial disability to toll the statute of limitations for the 2015 tax year.

FACTUAL FINDINGS

1. FTB obtained information indicating appellant may have received income sufficient to prompt a return-filing requirement for the 2015 tax year. Based on this information, FTB issued appellant a Request for Tax Return for the 2015 tax year on October 10, 2017.
2. With no response from appellant, FTB estimated appellant’s income based on mortgage interest paid and issued appellant a Notice of Proposed Assessment (NPA) for the 2015 tax year on December 13, 2017.

3. Appellant filed a protest on February 15, 2018, explaining he intended to file a 2015 return. FTB issued appellant a notice on March 12, 2018, requesting a return be filed within 30 days.
4. With no response from appellant, FTB issued appellant a Notice of Action (NOA), affirming the NPA, on May 8, 2018. FTB initiated collection action after the NOA became final.
5. FTB received payment on December 31, 2018.
6. Appellant filed an untimely 2015 tax return on January 15, 2021, reporting no taxable income. FTB accepted the return as filed resulting in an overpayment for the 2015 tax year. On September 1, 2021, appellant filed a claim for refund. FTB denied the claim for refund on March 20, 2023.
7. Appellant filed this timely appeal.

DISCUSSION

Appellant concedes that his claim for refund was not filed within the time periods prescribed in R&TC section 19306(a). Instead, appellant argues that pursuant to R&TC section 19316, the statute of limitations was suspended for the period during which he was financially disabled.

R&TC section 19316 provides that the period for filing a claim for refund may be suspended, and therefore the filing date may be extended, if a taxpayer is “financially disabled,” as defined in R&TC section 19316(b). For purposes of R&TC section 19316, financial disability exists if: (1) an 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/registered domestic partner or other legally authorized person who can act on the taxpayer’s behalf in financial matters.¹ (R&TC, § 19316(b)(1)-(2).) When a taxpayer alleges financial disability to suspend and thus extend the period to file a timely claim for refund, 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*, 2018-OTA-052P.) To suspend the statute of limitations, the period of financial disability must occur during the limitations period. (*Ibid.*)

Appellant states that he had a series of health problems and other personal circumstances that necessitated his full attention and support, which diverted his focus from his

¹ See FTB Form 1564, Financially Disabled - Suspension of the Statute of Limitations.

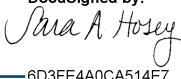
tax obligations. Appellant provides medical documentation stating he underwent various medical diagnostic procedures on January 18, 2014, April 13, 2012, and January 18, 2014. Unfortunately, this evidence is insufficient for OTA to find appellant was “financially disabled,” as there is no affidavit from a physician that details appellant’s physical or mental impairment that prevented appellant from managing his financial affairs for a specific time period. Moreover, appellant has not shown how events occurring in 2012 and 2014 would constitute financial disability during the running of the limitation period which commenced in 2016. Finally, appellant failed to address the second requirement for proving financial disability—that there was no individual authorized to act on appellant’s behalf in financial matters. Accordingly, appellant has not substantiated his claim for financial disability to toll the statute of limitations.

HOLDING

Appellant’s claim for refund for the 2015 tax year is barred by the statute of limitations.

DISPOSITION

FTB’s action is sustained.

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Sara A. Hosey
Administrative Law Judge

Date Issued: 11/17/2025