2026-OTA-292
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **E. BULLER**	OTA Case No. 241218200

OPINION

Representing the Parties:

For Appellant: E. Buller

For Respondent: Caitlin S. Russo, Senior Legal Analyst

For Office of Tax Appeals: Linda Frenklak, Attorney

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, E. Buller (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant's claims for refund of $9,761.37 for the 2017 tax year and $11,197.47 for the 2018 tax year.

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 the statute of limitations bars appellant's claims for refund for the 2017 or 2018 tax year.

FACTUAL FINDINGS

1. Appellant did not timely file a 2017 or 2018 California tax return.
2. FTB received information that appellant received income that would require appellant to file a tax return for the 2017 and 2018 tax years. Based on that information, FTB sent appellant a Request for Tax Return (Request) for the 2017 tax year and a Demand for Tax Return (Demand) for the 2018 tax year. Appellant did not respond to the Request or Demand.

3. FTB issued a separate Notice of Proposed Assessment (NPA) for both the 2017 and 2018 tax years. The 2017 NPA proposed to assess tax and a late filing penalty, plus interest. The 2018 NPA proposed to assess tax, a notice and demand penalty, and a late filing penalty, plus interest.
4. Appellant did not timely protest the 2017 or 2018 NPA, and the proposed assessments became due and payable. Thereafter, FTB initiated collection action.
5. On February 10, 2021, FTB received a levy payment of $11,252.73 in full satisfaction of appellant's 2017 account balance.
6. Between March 15, 2022, and May 31, 2022, FTB received payments in full satisfaction of appellant's 2018 account balance.
7. On August 14, 2024, appellant filed California Resident Income Tax Returns for the 2017 and 2018 tax years, reporting overpayments in both years.
8. FTB accepted appellant's 2017 and 2018 returns as filed and treated them as claims for refund. For the 2017 tax year, FTB reduced the total tax liability, late filing penalty, and accrued interest based on the amount of tax reported on appellant's 2017 return and added a collection cost recovery fee, resulting in an overpayment of $9,761.37. For the 2018 tax year, FTB reduced the total tax liability, late filing penalty, notice and demand penalty, and accrued interest, based on the amount of tax reported on appellant's 2018 return, and added a filing enforcement fee and a collection cost recovery fee, resulting in an overpayment of $11,197.47.
9. FTB denied the claims for refund for the 2017 and 2018 tax years due to the expiration of the statute of limitations.
10. This timely appeal followed.

DISCUSSION

The law generally requires a taxpayer to file a claim for refund by the later of: (1) four years from the date the return is filed, if filed within the extended filing period pursuant to an extension of time to file; (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).) Taxpayers have the burden of proof to show entitlement to a refund and that the claim is timely. (*Appeal of Fischer (Dec'd)*, 2024-OTA-518P.)

Appellant does not dispute that the 2017 and 2018 returns filed on August 14, 2024, were untimely claims for refund pursuant to R&TC section 19306. Instead, appellant argues that her failure to timely file her 2017 and 2018 claims for refund was due to several unfortunate circumstances, including the 2017 wildfires and the COVID-19 pandemic, as well as employment, financial, and mental health issues beginning in 2017. Appellant asserts that the combination of these events and issues made it impossible for her to timely file her 2017 and 2018 returns.

If an individual taxpayer is "financially disabled," as defined in R&TC section 19316, the statute of limitations may be suspended during the period of financial disability. An individual taxpayer is financially disabled if: (1) the taxpayer is unable to manage his or her financial affairs due to 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).)

On appeal, FTB provided appellant a copy of Form 1564, Financially Disabled – Suspension of the Statute of Limitations, and requested that appellant provide supporting documentation necessary to establish she was "financially disabled." However, appellant has not submitted a completed Form 1564 or provided any information that might otherwise support a determination of financial disability. Appellant thus fails to establish she was "financially disabled" as defined in R&TC section 19316.

The language of the statute of limitations must be strictly construed and there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Fischer (Dec'd)*, *supra*.) Nor is there an exception that suspends the statute of limitations for claims for refund due to the ill health of the taxpayer or any other unfortunate circumstances. (See *Appeal of Estate of Gillespie*, 2018-OTA-052P.) Absent a statutory exception, a taxpayer's untimely filing of a claim for refund for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Appeal of Fischer (Dec'd)*, *supra*.) Based on the record in this appeal, appellant has not satisfied her burden of proof to show that the claims were timely.

HOLDING

The statute of limitations bars appellant's claims for refund for the 2017 and 2018 tax years.

DISPOSITION

FTB's actions are sustained.

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Erica Parker
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Erica Parker
Hearing Officer

We concur:

Signed by:
Suzanne B. Brown
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Suzanne B. Brown
Administrative Law Judge

DocuSigned by:
Teresa A. Stanley
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Teresa A. Stanley
Administrative Law Judge

Date Issued: 4/8/2026