

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 241017853
C. PLOWMAN¹	)	
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OPINION

Representing the Parties:

For Appellant:	Kevin Plowman, Representative
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For Respondent:	Leoangelo C. Cristobal, Attorney
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For Office of Tax Appeals:	Amber Poon, Attorney
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H. FAMULARO, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Plowman (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$24,352.82 for the 2018 tax year.²

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).

¹ C. Plowman passed away during the pendency of this appeal.

² By notice dated July 29, 2024, respondent denied appellant's overpayment of \$24,352.82 for the 2018 tax year because the statute of limitations had expired. Appellant filed a timely appeal with the Office of Tax Appeals (OTA) appealing respondent's denial of his claim for refund for the 2018 tax year but further alleges his claim for refund includes \$332.03 and \$34.00 for 2019 and 2020 tax years, respectively. Appellant subsequently filed substantially similar second and third appeals, and then filed his fourth and final appeal solely appealing respondent's denial of his claim for refund of \$24,352.82 for the 2018 tax year. Appellant does not provide a notice denying his claims for refund for 2019 or 2020, or any other notice that would confer jurisdiction on OTA for the 2019 and 2020 tax years. Respondent confirms that its records do not reflect that appellant claimed a refund for the 2019 or 2020 tax years, and that respondent did not issue a notice to appellant denying claims for refund for 2019 or 2020, or issue to appellant any other notice that would confer jurisdiction on OTA for these tax years. If respondent fails to mail a notice of action on a refund claim within six months after the claim is filed, appellant may consider the claim denied and file an appeal to OTA. (R&TC, § 19331). However, appellant does not allege that he filed claims for refund for the 2019 and 2020 tax years and there is no evidence in the record to indicate that he did. Therefore, OTA finds that it has jurisdiction solely to hear and decide appellant's appeal of respondent's action denying appellant's claim for refund of \$24,352.82 for the 2018 tax year. (See Cal. Code Regs., tit. 18, § 30103(a) [limiting OTA's jurisdiction to, among other things, appeals of respondent's notice of action on a proposed deficiency assessment or denial of a refund claim].)

ISSUE

Whether appellant's claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant did not timely file a 2018 California income tax return.
2. After requesting but not receiving a return from appellant, respondent issued a Notice of Proposed Assessment (NPA), which proposed tax based on an estimate of appellant's income, a late-filing penalty, and applicable interest for the 2018 tax year.
3. Appellant did not protest the NPA, and it became due and payable.
4. Respondent began collection action of appellant's balance due for the 2018 tax year and collected payments totaling \$26,852.82 between April 15, 2023, and July 15, 2024.³
5. On July 1, 2024, appellant untimely filed his 2018 tax return reporting no total tax and a refund due of \$26,603.⁴
6. Respondent processed and accepted appellant's 2018 tax return as a claim for refund. Respondent credited appellant for the payments appellant made within one year of the filing of his 2018 tax return on July 1, 2024,⁵ and determined that appellant had a total remaining overpayment of \$24,352.82.
7. By notice dated July 29, 2024, respondent denied appellant's remaining overpayment of \$24,352.82 for the 2018 tax year because the statute of limitations had expired.
8. This timely appeal followed.
9. On appeal, respondent asserts that the correct amount of appellant's overpayment is \$772.52.⁶

DISCUSSION

³ Respondent collected payment of \$24,352.82 on April 15, 2023, and additional payments totaling \$2,500 between August 15, 2023, and July 15, 2024.

⁴ Appellant filed a California Nonresident or Part-Year Resident Income Tax Return for the 2018 tax year but claimed to be a California resident on that return.

⁵ Pursuant to R&TC section 19306(a), respondent transferred \$2,510.73 (payments made from August 15, 2023, through July 15, 2024, totaling \$2,500, plus \$10.73 of allowed interest) to the 2019 and 2020 tax years in the amounts of \$1,489.02 and \$1,021.71, respectively.

⁶ Respondent asserts on appeal that appellant erroneously excluded royalty income of \$248,915 from his California taxable income. Respondent calculates that appellant's resulting total tax and interest is \$23,580.33, which reduces appellant's remaining overpayment of \$24,352.85 to \$772.52 for the 2018 tax year. Because OTA determines that appellant's claim for refund for the 2018 tax year is barred by the statute of limitations, as discussed below, this Opinion does not address respondent's revised computation of appellant's overpayment for the 2018 tax year.

Taxpayers are generally required to file their refund claims 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).) Appellant has the burden of proof to show entitlement to a refund and that the claim is timely. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.)

Appellant does not dispute that he filed his refund claim for the 2018 tax year after the statute of limitations period expired. Instead, appellant contends that he had serious physical and mental health conditions that prevented him from timely filing his claim for refund. To support his position, appellant provides a psychiatric examination report dated September 3, 2024, which is signed by an associate marriage family therapist, and a medical examination report dated October 9, 2024, which is signed by a medical doctor.

The statute of limitations for filing a refund claim must be strictly construed, meaning that a taxpayer's untimely filing of a refund claim for *any reason* bars a refund. (*Appeal of Benemi Partners, L.P.*, *supra.*) This is true even if the tax was not owed in the first place or was erroneously, illegally, or wrongfully collected. (*Ibid.*) Although the result of fixed deadlines may appear harsh, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*)

The running of the statute of limitations, however, may be suspended during any period where a taxpayer is "financially disabled." A taxpayer is financially disabled if 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 expected to last for a continuous period of not less than 12 months. (R&TC, § 19316(b)(1).) A taxpayer shall not be considered financially disabled for any period during which that taxpayer's spouse or any other person is legally authorized to act on that individual's behalf in financial matters. (R&TC, § 19316(b)(2).) To prove financial disability, a taxpayer must provide a physician's affidavit which contains a description of the taxpayer's physical or mental impairment and the period of disability. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellant's September 3, 2024 psychiatric examination report and October 9, 2024 medical examination report provide that appellant suffered from multiple physical and mental health conditions. However, these reports do not identify whether, when, or for how long appellant was unable to manage his financial affairs prior to the expiration of the statute of limitations for filing a claim for refund. Without evidence, such as a physician's affidavit describing when appellant was unable to handle his financial affairs, OTA cannot define the period when the statute of limitations for filing a claim for refund must be suspended. (R&TC,

§ 19316; *Appeal of Estate of Gillespie, supra.*) Thus, while OTA is sympathetic to the severe hardships that appellant describes, the relief appellant seeks cannot be provided.

HOLDING

Appellant's claim for refund is barred by the statute of limitations.

DISPOSITION

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

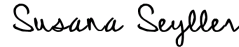
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6FE2EBECC6F6481... For
Hans Famularo
Administrative Law Judge

We concur:

Signed by:

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Suzanne B. Brown
Administrative Law Judge

DocuSigned by:

6FE2EBECC6F6481... For
Tommy Leung
Administrative Law Judge

Date Issued: 7/8/2026