

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 241017813
ESTATE OF H. DREXEN-WIENS	)	
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OPINION

Representing the Parties:

For Appellant:	Renee Kowalik-Moss, Administrator
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For Respondent:	Leoangelo C. Cristobal, Attorney
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For Office of Tax Appeals:	John Yusin, Attorney
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S. ELSOM, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, the Estate of H. Drexen-Wiens (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$10,194¹ for the 2019 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 appellant's claim for refund is barred by the statute of limitations.

FACTUAL FINDINGS

1. H. Drexen-Wiens (Decedent) passed away on January 16, 2022.
2. On August 18, 2022, Renee Kowalik-Moss (Administrator) was appointed special administrator of the Decedent's estate.
3. On July 8, 2024, Administrator untimely filed appellant's personal income tax return for the 2019 tax year (Return), with a married filing separate status, reporting total tax of

¹ Respondent's 2019 account summary indicates that respondent transferred \$1,969.65 (\$1,951.05 plus allowed interest of \$18.60) of the asserted \$10,194 overpayment to appellant's 2020 tax year. The basis for the transfer is not clear from the record, but the amount left in dispute for this appeal is \$8,242.95 (\$10,194 less \$1,951.05). Because the transferred amount favors appellant and is not in dispute, OTA will not address this matter further.

\$406, withholdings totaling \$10,600, and an overpayment of \$10,194, which appellant requested to be refunded.

4. Respondent issued a Statute of Limitations letter denying the claim of \$10,194 on the basis that the Return was filed outside the period prescribed for claiming a refund.
5. This timely appeal followed.

DISCUSSION

Appellant does not dispute that the claim for refund is untimely.² Appellant instead argues that the refund claim should be granted because Decedent was unable to manage her financial affairs during the statute of limitations period and had no power of attorney or other legal assistance with her finances including filing of the Return.

In an action for refund, the taxpayer has the burden of proof. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.) The running of the statute of limitations shall be suspended during any period in which an individual taxpayer is “financially disabled.” (R&TC, § 19316(a).) An individual taxpayer is financially disabled if he or she 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. (R&TC, § 19316(b)(1).) An individual taxpayer is not considered financially disabled for any period during which that individual’s spouse or any other person is legally authorized to act on that individual’s behalf in financial matters. (R&TC, § 19316(b)(2).) When a taxpayer alleges financial disability to suspend and thus extend that limitations period to file a 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*, *supra*.)

During this appeal, respondent provided appellant with FTB Form 1564, Financially Disabled – Suspension of the Statute of Limitations, and invited appellant to provide a physician’s affidavit or other information proving Decedent’s financial disability. Appellant does not provide, and the record does not contain, a physician’s affidavit or any other evidence proving the nature and duration of Decedent’s medical impairment under R&TC

² The law generally requires that taxpayers 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).) For purposes of R&TC section 19306, withheld taxes are deemed paid on the filing due date of the return. (R&TC, § 19002(c)(1).)

section 19316(a).³ Therefore, OTA cannot find that Decedent suffered from a financial disability that prevented her from filing a timely refund claim, and the statute of limitations cannot be tolled. (*Appeal of Estate of Gillespie*, *supra*.)

Appellant further argues that the statute of limitations should be tolled for the period that elapsed before Administrator was appointed. However, for the period after the decedent's death and before the Administrator was appointed, financial disability does not apply because "the financial disability exception does not include any period of time after a taxpayer's death." (*Appeal of Fischer (Dec'd)*, 2024-OTA-518P.) Therefore, OTA cannot toll the statute of limitations during this period.

The statute of limitations for filing a refund claim must be strictly construed, meaning that a taxpayer's untimely filing of a refund claim bars a refund. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) This remains true even if the tax was not owed or was erroneously, illegally, or wrongfully collected. (*Ibid.*) Although fixed deadlines may at times produce harsh results, the occasional harshness is redeemed by the clarity imparted. (*Ibid.*) Absent a legislatively enacted exception to the statute of limitations, OTA does not have the authority to avoid a seemingly unfair or harsh outcome. (*Appeal of Estate of Gillespie*, *supra*.)

³ OTA notes that appellant provides a certificate of vital records (i.e., death certificate) which lists the causes of Decedent's death. Though it is clear that Decedent experienced significant health issues, the duration and the extent to which these issues establish appellant's physical impairment during the limitations period cannot be determined by the record.

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.

Signed by:

Seth Elsom

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Seth Elsom
Hearing Officer

We concur:

Signed by:

Natasha Ralston

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Natasha Ralston
Administrative Law Judge

DocuSigned by:

Asaf Kletter

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Asaf Kletter
Administrative Law Judge

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