

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 241017763
M. WRIGHT AND	)	
R. SCOLARI WRIGHT	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellants:	M. Wright R. Scolari Wright
For Respondent:	John Ly, Attorney
For Office of Tax Appeals:	John Yusin, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Wright and R. Scolari Wright (appellants) appeal actions by the Franchise Tax Board (respondent) denying appellants' claim for refund of \$4,017.51 for the 2016 tax year and claim for refund of \$1,166.23 for the 2017 tax year.

Appellants 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 appellants' refund claims for the 2016 and 2017 tax years are barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellants did not timely file their 2016 tax return. Respondent sent appellant M. Wright a Demand for Tax Return dated August 7, 2019, and when appellant did not respond, respondent issued a Notice of Proposed Assessment (NPA) dated October 11, 2019, proposing tax, penalties and related interest.
2. Appellant M. Wright did not protest the 2016 NPA and the 2016 NPA became due and payable. Thereafter, respondent initiated collection efforts and appellants submitted

payments for the 2016 tax year from March 30, 2020, through January 30, 2023, totaling \$4,017.51.¹

3. Appellants jointly filed a California Form 540 for the 2016 tax year (2016 Return) on April 15, 2024, reporting \$0 total tax. Respondent treated the 2016 Return as a refund claim in the amount of \$4,017.51 and denied the claim on the basis that appellants filed the claim after the statute of limitations had expired.
4. Appellants did not timely file their 2017 tax return. Respondent sent appellant M. Wright a Demand for Tax Return dated April 26, 2019, and when he did not respond, respondent issued an NPA dated July 26, 2019, proposing tax, penalties and related interest.
5. Appellant M. Wright did not protest the 2017 NPA and the 2017 NPA became due and payable. Thereafter, respondent initiated collection efforts and appellants submitted payments for the 2017 tax year from January 30, 2023, through August 28, 2023, totaling \$1,627.49, and from September 28, 2023, through January 29, 2024, totaling \$840.
6. Appellants jointly filed a California Form 540 for the 2017 tax year (2017 Return) on September 3, 2024, showing total tax of \$110.
7. Respondent accepted the 2017 Return as a refund claim, and refunded appellants for payments made within one year of filing the return.² Respondent reduced the late-filing penalty to \$110, the demand penalty to \$27.50, and interest to \$52.76, and imposed fees totaling \$161. Respondent denied the claim for refund of the remaining overpayment amount of \$1,166.23 on the basis that appellants filed the claim after the statute of limitations had expired for the remaining overpayment.
8. This timely appeal followed.

¹ M. Wright's account reflects payments of \$3,017.51, and R. Scolari Wright's account reflects payments totaling \$1,000.

² Respondent refunded appellants \$840 for payments made within one year of the filing date for the 2017 Return, plus \$1.28 of allowed interest, by transfers of \$497.91 to appellants' 2018 account and \$343.37 to appellants' 2019 account, totaling \$841.28.

DISCUSSION

Appellants do not dispute that the refund claims were untimely filed or respondent's calculation of the overpayment amounts for the 2016 and 2017 tax years.³ Instead, appellants argue that the refund claims should be granted due to personal hardships, mental health issues, and the death of their child, which prevented the timely filing of their refund claims. Appellants also argue that during phone calls, respondent said they would receive refunds of overpayments and never explained that the statute of limitations might limit their ability to obtain refunds.

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.*, 2020-OTA-144P, italics added.) 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.*) There is no reasonable cause or equitable basis for suspending the statute of limitations for refund claims. (*Ibid.*) Additionally, respondent is not required to inform a taxpayer of the period within which a refund claim must be filed. (*Appeal of Matthiessen* (85-SBE-077) 1985 WL 15856.) Thus, the statute of limitations for filing refund claims cannot be tolled except in specific circumstances.

A circumstance of this kind occurs when a taxpayer is considered "financially disabled," thereby tolling the statute of limitations. (R&TC, § 19316.) An individual taxpayer is "financially disabled" if: (1) the taxpayer is unable to manage their 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); *Appeal of Estate of Gillespie*, 2018-OTA-052P.) 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. (*Ibid.*)

Appellants have not provided medical evidence of physical or mental impairment impacting their ability to manage their financial affairs or a physician's affidavit to establish financial disability for tolling the statute of limitations. While OTA is sympathetic to appellants' circumstances and loss, the penalty may not be abated based on reasonable cause. (*Appeal of Benemi Partners, L.P.*, *supra*.) Therefore, they have not established financial disability for any

³ Aside from the refund amount of \$840, respondent denied appellants' claims for the other payments because all were made more than one year before appellants filed either the 2016 or 2017 return. (R&TC, § 19306(a).)

period prior to the filing of the refund claims. As such, OTA is without authority to allow an untimely refund claim and cannot grant appellants' appeal.

HOLDING

Appellants' refund claims for the 2016 and 2017 tax years are barred by the statute of limitations.

DISPOSITION

Respondent's action is sustained.

Signed by:

Veronica I. Long

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Veronica I. Long
Administrative Law Judge

We concur:

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Amanda Vassigh

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Amanda Vassigh
Administrative Law Judge

DocuSigned by:

Teresa A. Stanley

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Teresa A. Stanley
Administrative Law Judge

Date Issued: 6/29/2026