

In the Matter of the Appeal of:) OTA Case No. 250722619
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1. Appellant did not timely file a California tax return for the 2019 taxable year.
2. FTB requested that appellant file a tax return for the 2019 taxable year because FTB had information showing that appellant earned sufficient income to require appellant to file a tax return.
3. When appellant did not respond, FTB issued a Notice of Proposed Assessment (NPA) proposing to assess additional tax based on an estimate of appellant's income, a late-filing penalty, and interest.
4. Because appellant did not protest the NPA, the proposed liability became due and payable.

5. FTB began collection action and received payments totaling \$5,855.48 from September 7, 2022, to November 16, 2022.
6. On March 15, 2025, appellant untimely filed a California tax return for the 2019 taxable year claiming a \$2,492 refund.
7. FTB accepted and processed appellant's tax return. FTB treated the tax return as a claim for refund and determined that appellant had an \$8,071.99 overpayment.¹
8. FTB denied the claim for refund due to expiration of the statute of limitations.
9. Thereafter, appellant timely filed this appeal.

DISCUSSION

No credit or refund may be allowed unless a claim for refund is filed within the later of: (1) four years from the date the return was filed, if the return was timely filed pursuant to an extension of time to file; (2) four years from the due date for filing a return (determined without regard to any extension of time to file); or (3) one year from the date of overpayment. (R&TC, § 19306(a).) The taxpayer has the burden of proving entitlement to a refund and that the claim is timely. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

The running of the statute of limitations, however, may be suspended during any period where a taxpayer is "financially disabled." (R&TC, § 19316(a).) A taxpayer is "financially disabled" if the taxpayer is not able 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 that contains a description of the taxpayer's physical or mental impairment and the period of disability. (*Appeal of Estate of Gillespie*, *supra*.)

Here, appellant does not dispute that she filed her claim for refund after the statute of limitations expired. Instead, appellant argues that she delayed filing a claim for refund because of personal medical and familial issues and would have timely filed a claim for refund if she

¹ FTB calculated appellant's overpayment as \$8,071.99 because FTB received withholdings of \$5,099, FTB collected payments of \$5,855.48, FTB wrote off \$40.51, appellant's tax liability was \$2,607, and FTB imposed a \$316 collection cost recovery fee.

knew about the statute of limitations.² However, appellant must provide a physician's affidavit and supporting documentation to establish financial disability to toll the statute of limitations, which appellant did not provide.³ (See *Appeal of Estate of Gillespie, supra.*) In addition, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) The language of the statute of limitations is explicit and must be strictly construed. (*Ibid.*) A taxpayer's untimely filing of a claim for any reason bars a refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected. (*Ibid.*) This is true even when it is later shown that the tax was not owed in the first place. (*Ibid.*) While OTA is sympathetic to appellant's situation, OTA lacks the authority to grant appellant's untimely claim for refund.

² Appellant also states that she did not owe taxes and was not, therefore, concerned about filing a return on time. However, FTB collected substantial amounts from appellant between September 7, 2022, and November 16, 2022, but appellant does not state that she attempted to contact FTB about why it was collecting these amounts even though her withholdings exceeded her total tax for the 2019 tax year.

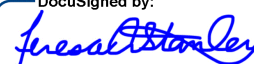
³ FTB included information about financial disability and a form appellant could have used to provide a physician's affidavit to prove financial disability during the relevant time period, but appellant did not respond or provide such information.

HOLDING

Appellant's claim for refund for the 2019 taxable year is barred by the statute of limitations.

DISPOSITION

OTA sustains FTB's action denying appellant's claim for refund.

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Teresa A. Stanley
Administrative Law Judge

We concur:

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Hans Famularo
Administrative Law Judge

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Steven Kim
Administrative Law Judge

Date Issued: 6/23/2026