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OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **A. RIVERA**	)	OTA Case No. 250622482

OPINION

Representing the Parties:

For Appellant:	A. Rivera
For Respondent:	Nathan Hornbuckle, Graduate Student Assistant
For Office of Tax Appeals	Namrita Randhawa, Program Specialist

Pursuant to Revenue and Taxation Code (R&TC) section 19324, A. Rivera (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of $2,344.70 for the tax 2019 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 for the 2019 tax year is barred by the statute of limitations.

FACTUAL FINDINGS

1. Appellant did not timely file a 2019 tax return.
2. On November 16, 2021, FTB sent a Demand for Tax Return (Demand) stating that FTB received information from a third party, indicating that appellant may have earned income that required appellant to file a California tax return. The Demand required appellant to either file a 2019 tax return, provide evidence that appellant already had filed a return, or explain why appellant did not have a filing requirement.

3. When appellant did not respond, FTB issued a Notice of Proposed Assessment (NPA), which estimated appellant's income and proposed an assessment of tax, a late filing penalty, a demand penalty, a filing enforcement fee, and interest. When appellant did not protest the NPA, it became due and payable.
4. FTB commenced collection actions and received payments from September 26, 2022, to November 15, 2022.
5. On May 29, 2025, appellant untimely filed a 2019 California Resident Income Tax Return, reporting an overpayment.
6. FTB accepted the return as filed, treated it as a claim for refund, and denied the refund claim, stating that it was filed outside the statute of limitations.
7. This timely appeal followed.

DISCUSSION

R&TC section 19306 imposes a statute of limitations to file a claim for refund. R&TC section 19306(a) provides that no credit or refund shall 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 within the extended filing period pursuant to an extension of time to file; (2) four years from the due date prescribed for filing the return (determined without regard to any extension of time for filing the return); or (3) one year from the date of the overpayment. The taxpayer has the burden of proving entitlement to a refund and that the claim for refund is timely. (Cal. Code Regs, tit. 18, § 30219(a); *Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Because appellant did not file a timely tax return, the first four-year statute of limitations period is inapplicable. The second statute of limitations period expired on April 15, 2024, or four years from April 15, 2020, the original due date. (R&TC, § 18566.) The one-year statute of limitations period expired on November 15, 2023, which is one year following the date of appellant's last payment. FTB did not receive appellant's refund claim until May 29, 2025, which is after both the four-year and one-year statute of limitations periods expired. Therefore, appellant's claim for refund was untimely.

Appellant contends that he faced mental health challenges and personal hardships due to the pandemic, which delayed the timely filing of his return.

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 R&TC section 19306 is explicit and must be strictly construed. (*Ibid*.) While fixed deadlines may appear harsh because

they can be missed, the resulting occasional harshness is redeemed by the clarity imparted. (*Ibid*.)

However, the running of the statute of limitations 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).) 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*, *supra*.)

To the extent appellant argues the statute of limitations should be suspended due to financial disability, appellant has not provided the requisite physician's affidavit.[1] Absent a legislatively enacted exception to the statute of limitations, OTA does not have the authority to grant an untimely refund claim to achieve a more equitable result for taxpayers or to avoid a seemingly harsh outcome. (*Appeal of Estate of Gillespie*, *supra*.) Although OTA is sympathetic to appellant's situation, OTA is unable to provide the relief appellant seeks.

[1] During briefing, FTB provided appellants with form FTB 1564, Physician Affidavit of Physical or Mental Impairment, and its instructions.

HOLDING

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

DISPOSITION

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

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Amanda Vassigh
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Amanda Vassigh
Administrative Law Judge

We concur:

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Phyllis Mallard
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On behalf of
Kim Wilson
Hearing Officer

Signed by:
Veronica I. Long
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Veronica I. Long
Administrative Law Judge

Date Issued: 9/2/2026