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OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **N. YACOUB AND** **M. YACOUB**	)	OTA Case No. 250923105

OPINION

Representing the Parties:

For Appellants: N. Yacoub and M. Yacoub

For Respondent: Shah Khan, Program Specialist

K. SHELTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, N. Yacoub and M. Yacoub (appellants) appeal an action by the Franchise Tax Board (respondent) denying appellants' claim for refund of $48,589.52 for the 2018 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' claim for refund for the 2018 tax year is timely.

FACTUAL FINDINGS

1. Appellants did not timely file a Form 540, California Resident Income Tax Return (Return) for the 2018 tax year.
2. Respondent received information from third parties indicating that appellant N. Yacoub (individually referred to as Appellant) may have received sufficient income to file a Return for the 2018 tax year. A printout of the Income Summary statement from respondent's computer system reflects the third-party payments to Appellant at Appellant's address located in La Puente, California (La Puente address). Appellants used the La Puente address on their Return for the 2017 tax year, which they filed on November 21, 2020.

3. On March 29, 2022, respondent issued a Request for Tax Return (Request) to Appellant requesting that he file a Return for the 2018 tax year. Appellant's address reflected on the Request is the La Puente address. The Request issued to the La Puente address was returned to respondent.[1]
4. On July 19, 2022, respondent issued a second Request to Appellant that reflected Appellants' address in Los Angeles, California (Los Angeles address) because respondent determined that the Los Angeles address was Appellants' then-current address. The Request that was mailed to the Los Angeles address was not returned to respondent.
5. Respondent issued a Notice of Proposed Assessment (NPA) to Appellant on September 23, 2022, proposing to assess tax, a late-filing penalty, and interest for a total of $51,589.80 based on an estimate of his income because he did not respond to respondent's Requests. Respondent mailed the NPA to Appellant using the Los Angeles address. Appellant did not respond to the NPA; therefore, the proposed liability became due and payable.
6. Respondent began collection action on multiple tax years and issued an Intent to Record a Notice of State Tax Lien that reflected Appellant's address in West Covina, California. Respondent levied $94,271.89 from Appellant's bank account on February 12, 2024. Respondent applied $55,687.81 of this payment to appellants' account for the 2018 tax year.
7. On June 13, 2025, appellants untimely filed a joint Return for the 2018 tax year reporting a $4,562 tax liability. The 2018 Return reflected appellants' address in Phoenix, Arizona.
8. Respondent accepted and processed appellants' 2018 Return, and treated it as their claim for refund. Respondent determined that appellants had a $48,859.52 overpayment.[2]
9. Respondent denied appellants' claim for refund because it was barred by the statute of limitations.
10. Thereafter, appellants timely filed this appeal.

[1] Respondent does not specify how the Request was return to respondent, but it appears likely that it was the U.S. Postal Service that returned the Request that was mailed to Appellant.

[2] Respondent did not explain how it calculated the $48,859.52 overpayment, but it appears to have been calculated by taking into account the $55,687.81 payment, appellants' reported $4,562 tax liability, and a late-filing penalty, plus applicable interest.

11. On appeal, appellants provide a medical Certificate of Disability (Medical Certificate) issued by a doctor in the Ministry of Health in El Salvador for Appellant. The Medical Certificate explained that Appellant was treated by a physician from August 8, 2025, to August 18, 2025, and was diagnosed with several diseases. Appellant also provides a explanation of his health problems starting in the 2018 year.

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 language of the statute of limitations is explicit and must be strictly construed. (*Appeal of Benemi Partners, L.P.*, 2020-OTA-144P.) 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*.)

The running of the statute of limitations 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).) 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*.) The period of the taxpayer's financial disability must overlap with the open period for filing a refund claim under the statute of limitations. (*Appeal of Estate of Gillespie*, *supra*; *Appeal of Meek* (2006-SBE-001) 2006 WL 864344.) 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).) There is no reasonable cause or equitable basis for suspending the statute of limitations, however. (*Appeal of Benemi Partners, LP., supra*.)

Here, appellants do not dispute that they did not timely file their claim for refund for the 2018 tax year. Appellants argue essentially that they qualify for the financial disability exception to the period of limitations. For appellants to qualify for the financial disability exception to the

statute of limitations, Appellant must have experienced the physical or mental health impairments that caused the financial disability between April 15, 2019, and February 12, 2025, which is the period during which a refund claim could have been filed for the 2018 tax year. (R&TC, § 19306(a); *Appeal of Meek*, *supra*.)[3]

Appellant asserts that he suffered from a decline in his health beginning in 2018 that prevented appellants from timely filing a claim for refund. Appellant also asserts that he suffered from COVID-19 in the 2019 tax year, which caused him health problems. As a result of these medical problems, he withdrew from his occupation and business in April of 2021 and appellants moved to El Salvador. However, appellants do not provide any information from a physician regarding Appellant's health, nor is there any indication that Appellant's health problems were terminal impairments or expected to last for a continuous period of not less than 12 months, as is required under R&TC section 19316.

Appellants also provide the Medical Certificate, which is dated August 8, 2025, which recommends that Appellant receive treatment and sick leave for 10 days, from August 8, 2025, to August 18, 2025, with respect to his health problems. However, the Medical Certificate does not provide any detail regarding Appellant's health between April 15, 2019, and February 12, 2025, which is the relevant period. Rather, the Medical Certificate is dated August 8, 2025, which was after the statute of limitations already expired. Additionally, appellants filed a joint 2018 Return, but have offered no explanation or facts indicating why appellant M. Yacoub did not file the Return.

On appeal, appellants explain that they moved to El Salvador in April 2021, which was before respondent issued the Requests and NPA. Appellants indicate that they did not receive respondent's Requests and NPA, and that respondent garnished Appellant's wages without his knowledge. Appellants appear to assert that respondent's levy and subsequent claim denial has caused financial hardship to them. Appellant specifically states, "[c]onsidering that I am a retired senior citizen, I have no income, and the money seized is necessary for life covering basic needs."

Appellants' arguments appear to be in the nature of equitable claims, that is, that respondent should allow their claim on equitable grounds. However, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners,*

[3] The four-year statute of limitations expired on April 15, 2023, because appellants did not timely file the Return for the 2018 tax year. (R&TC, § 19306(a).) The one-year statute of limitations expired on February 12, 2025, because respondent received appellants' payment on February 12, 2024. (*Ibid*.)

L.P., *supra*.) Appellants' untimely filing of the refund claim for any reason bars the refund even if the tax is alleged to have been erroneously, illegally, or wrongfully collected.[4] (*Ibid*.)

While OTA is sympathetic to Appellant's health problems, OTA lacks the authority to grant appellants' untimely claim for refund.

HOLDING

Appellants' claim for refund for the 2018 tax year is untimely.

DISPOSITION

Respondent's action is sustained.

Signed by:
L. Katrine Shelton
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L. Katrine Shelton
Administrative Law Judge

We concur:

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Sara A. Hosey
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Sara A. Hosey
Administrative Law Judge

Signed by:
Seth Elsom
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Seth Elsom
Hearing Officer

Date Issued: 6/24/2026

[4] OTA notes that respondent mailed the first Request to Appellant on March 29, 2022, to the same address that appellants used on their 2017 Return, which they filed on November 21, 2020. Thus, appellant's last known address as of the 2022 year appears to have been the La Puente address. (R&TC, § 18416(c); *Appeal of Goodwin* (97-SBE-003) 1997 WL 258474.) In addition, appellants did not provide any facts establishing that any of the addresses respondent used for the other Request or other mailings were incorrect, or that they provided respondent with clear and concise notification of their address in El Salvador. (R&TC, § 18416(c).) As a result, respondent properly mailed the NPA to Appellant's last known address.