under the tax law (Chan, CA-10 No. 16-4197, 5/30/17).

Ken Berry • Jul. 05, 2017

A taxpayer in a new appellate court case failed to meet the timing requirements enabling him to claim a tax refund or qualify for a "financial disability" exception under the tax law (Chan, CA-10 No. 16-4197, 5/30/17).

As s a general rule, you must file a claim for a credit or refund of tax within the later of (1) three years after filing the return or (2) two years after paying the tax. Otherwise, the IRS won't allow the credit or refund. A related tax code section limits the amount of a claimed credit or refund of a tax overpayment to the tax paid within the three-year period plus the period for any extension.

However, these statutory limits are suspended for any period when the taxpayer is "financially disabled." For these purposes, a taxpayer is financially disabled if he or she is unable to manage financial affairs due to a mental or physical impairment that is expected to result in death or has lasted — or can be expected to last — for at least a year.

To qualify for this tax relief, you must be able to provide proof of the mental or physical impairment. The IRS isn't just going to take your word for it – it may request a statement from the attending physician.

In the new case, the record didn't show when the taxpayer actually paid his 2008 tax liability due on April 15, 2009. But he purportedly applied for a six-month extension and filed a timely return on October 15, 2009. Subsequently, the taxpayer filed two refund claims: the first on October 15, 2012 and the second on April 15, 2013. In other words, he filed his first refund claim exactly three years after the 2008 return was filed.

The IRS moved to dismiss the claims. Reason: It argued that the taxpayer didn't file a

whether or not he applied for an extension.

However, even when a taxpayer files a refund claim within the three-year period, the tax law limits the amount of any refund to the portion of the tax paid in the three years prior to the claim, plus any extension for filing the return. The taxpayer never claimed to have paid any tax during this period, so his first refund claim resulted in a zero refund. And his second claim was not timely.

Then the appellate court turned to the "financially disabled" issue. Because the taxpayer didn't produce sufficient proof, the Court said that it could not make a determination that he qualified for relief. As a result, the taxpayer ended up with nothing.

These rules are complex and require careful application for each situation. Encourage clients to consult with you regarding timing issues,