BOARD OF TAX APPEALS
STATE OF LOUISIANA

JAMES RYAN, III,
PETITIONER

VERSUS DOCKET NO. 14702C

SECRETARY, DEPARTMENT OF REVENUE,
RESPONDENT

****

JUDGMENT ON EXCEPTIONS WITH WRITTEN REASONS

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On September 2, 2026, this matter came before the Board for hearing on the Exception of Prescription filed by the Secretary of the Department of Revenue ("Department") Presiding at the hearing were Chairman Francis J. "Jay" Lobrano, Vice-Chair Judge Lisa Woodruff-White (Ret.), and Michael G. Gaffney. Present before the Board were Elizabeth Clark Ryan, on behalf of James Ryan, III ("Taxpayer"), and Debra Morris, attorney for the Department. At the conclusion of the hearing, the Board took the matter under advisement. In accordance with the attached Written Reasons, the Board now rules as follows:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Exception of Prescription BE AND IS HEREBY SUSTAINED.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Judgment BE AND IS HEREBY rendered in favor of the Department and against the Taxpayer.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Petition BE AND IS HEREBY DISMISSED.

JUDGMENT RENDERED AND SIGNED AT BATON ROUGE, LOUISIANA, THIS 5TH DAY OF NOVEMBER, 2026.

FOR THE BOARD:

CHAIRMAN FRANCIS J. "JAY" LOBRANO
LOUISIANA BOARD OF TAX APPEALS

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On September 2, 2026, this matter came before the Board for hearing on the Exception of Prescription filed by the Secretary of the Department of Revenue ("Department") Presiding at the hearing were Chairman Francis J. "Jay" Lobrano, Vice-Chair Judge Lisa Woodruff-White (Ret.), and Michael G. Gaffney. Present before the Board were Elizabeth Clark Ryan ("Elizabeth"), on behalf of James Ryan, III ("Taxpayer"), and Debra Morris, attorney for the Department. At the conclusion of the hearing, the Board took the matter under advisement. The Board now issues the following Written Reasons for ruling.

Background

On January 9, 2020, the Taxpayer made a payment to the Department in the amount of $37,000.00 for the 2019 Tax Year.[1] However, the Taxpayer did not file a 2019 resident individual income tax return at that time. In the summer of 2025, the Taxpayer's daughters discovered that the Taxpayer was incapable of managing his financial affairs and had failed to file returns for several years. Taxpayers' daughters took steps to put his affairs in order and saw to it that his 2019 return was filed. Said filing occurred on November 18, 2025. Taxpayers' daughters, unaware of the earlier $37,000.00 payment, included a payment of $19,602.00 with the 2019 return.

[1] Said payment is evidenced by the Department's Exhibit 2, a copy of the payment check, dated January 9, 2020.

The 2019 return also included a refund claim for approximately $17,398.00. On March 3, 2026, the Department issued a Refund Denial Notice to the Taxpayer. Therein, the Department informed the Taxpayer that the refund claim was prescribed under LA. R.S. 47:1623. The Department's position was that the refund claim was made more than one year after the $37,000.00 payment and more than three years after December 31st of the year in which the tax became due.

However, the Department did not treat the refund claim as prescribed with respect to the payment of $19,602.00 that was submitted with the 2019 return. Accordingly, on March 9, 2026, the Department refunded the Taxpayer $19,525.51, plus $117.95 in interest. Said refund represented the return of the majority of the payment erroneously remitted with the return. The Department applied the balance of $76.49 to the Taxpayer's 2023 tax year liability.

The Taxpayer appealed from the Department's denial of the refund claim as to the payment of $37,000.00. It is evident from the allegations in Petition and from Elizabeth's testimony, that the Taxpayer is medically incapable of representing himself. The Department accordingly did not object to Elizabeth appearing as his representative before the Board. The Board permitted said representation under the extraordinary circumstances in this case. However, it must be observed that the Board's decision to allow Eliabeth to represent her father has no bearing on the Taxpayer's capacity for any other purpose. In particular, the Board's decision has no bearing on the Taxpayer's primary contention, that prescription under La. R.S. 47:1623 should not run against him due to his alleged mental incapacity.

The Taxpayer's argument, presented to the Board on his behalf by Elizabeth, is that, because of his mental incapacity, he did not know and could not reasonably have known of his refund claim. Further, Elizabeth testified that the Taxpayer resisted efforts by his family to aid him with his affairs. Although he signed a prophylactic Power of Attorney ("PoA") in 2022 and allowed his daughters to be added

to his bank account in the spring of 2023, he continued to oppose his family's attempts to assist him. Thus, Elizabeth explained that anyone who would have been in a position help him with his tax affairs could not have known of his refund claim until the summer of 2025, when he finally acquiesced to their taking over of his financial affairs. As evidence of the lack of actual knowledge, Elizabeth noted that she paid $19,602.00 with the 2019 return, which she would not have done if she knew of the prior overpayment.

The evidence introduced on the Taxpayer's behalf at the hearing included several medical reports. Taxpayer Exhibit 1 is a Report of Neuropsychological Evaluation by Dr. Kim VanGeffen. Therein, Dr. VanGeffen stated that the Taxpayer "displayed significant difficulty on the memory tests, particularly on tests of verbal memory." However, Dr. VanGeffen also stated that because the Taxpayer's "intellectual skills appear to be intact," and because "he appears able to handle most aspects of his activities of daily living," that a "diagnosis of mild cognitive impairment is most appropriate at this time."

Taxpayer Exhibits 3[2] and 4 are reports by Dr. Cheryl Goyne. Taxpayer Exhibit 3 is a letter in which Dr. Goyne states: "Mr. Ryan's cognitive impairment prevents him from reliably managing his financial affairs and other complex matters independently and this has been the case since 2022 or 2023." Taxpayer Exhibit 4 contains another letter from Dr. Goyne along with notes from doctor's office visits on June 29, 2022, September 14, 2022, December 14, 2022, February 9, 2023, December 4, 2024, November 12, 2025, and February 23, 2026.

Notes from the June 29, 2022 visit reflect "marked impairments in working memory." These notes also state that the Taxpayer "has continued his work as an attorney, but suffers from issues of recall at work." Additionally, these notes state that the Taxpayer "still drives and sets appointments on a calendar." However, the

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[2] The Board sustained the Department's objection to Taxpayer Exhibit 2.

notes reflect that the Taxpayer "struggles to remember names, and to the concern of his family, seems to shut down any difficult conversations that are started."

Notes from the September 14, 2022 visit show that the Taxpayer told the doctor that "since his last visit on 6/29/2022," his memory had "gotten 'significantly worse.'" However, the notes also state that both the Taxpayer and his daughter, "both agree that if he puts something in his calendar, he will not forget it." Further, the notes reflect that the "daughter states that he will frequently forget conversations that have occurred, and will repeat things that were already said in conversation previously." According to the notes, the Taxpayer was still driving himself at that time, despite concerns due to his "decreased hearing and slower reflexes," and that the Taxpayer had clipped the sides of cars in parking lots on multiple occasions. The notes further reflect that the Taxpayer was still working as an attorney but was planning to retire at the end of the year.

The notes from the December 14, 2022 visit report a statement by the Taxpayer's daughter that the Taxpayer's memory decline had significantly increased since September. Other issues reported included forgetting common words, immediate conversations, and poor judgment with driving or planning travels. The Taxpayer apparently claimed to be able to take medication without assistance. However, the notes reflect statements by the Taxpayer's daughter that the Taxpayer was unsure when to take medications and the correct frequency. A bolded note in the Physical Exam notes stats that the Taxpayer could not name the current president.

Notes from the February 9, 2023 visit show that this was a visit for an MRI. The findings include moderate cerebral volume loss. The findings additionally note persistent asymmetric left temporal/hippocampus atrophy, with reference to this being observed in prior imaging. The notes further state that the report was "flagged in Epic as abnormal."

The notes from the December 4, 2024 visit show that the Taxpayer had retired from his work as an attorney. The Taxpayer told the doctor that he lived independently with his wife. He was still driving. He admitted his memory was not as good as it used to be but did not give examples of memory problems. His daughter reported that his mental state had declined in the last six months and that he had trouble learning new things.

The notes from the November 12, 2025 visit state that the Taxpayer and his wife lived in their home and "do manage to function well, with family support." He was still driving during the day. However, he would reportedly "get angry and pound his fists on the table especially when family confronts him about driving."

The notes from the February 23, 2026 visit state that the Taxpayer appeared well. He was reportedly independent and in daily custodial self-care. He still drove himself at the time. However, the notes reflect that "dtrs handle the bills and meds." He also "recently ordered new alarm system for the house which was not necessarily [sic] (they only a new battery[sic])." The notes further state that the Taxpayer, "recently ordered a funeral policy at a church he does not attend. He didn't pay his taxes (since 2018[])," and "[c]an no longer have tests at Quests due to not paying the []bills." The doctor noted that, "[f]amily has POA but I feel the need to take greater action to prevent financial errors for example purchasing things inappropriately. They are looking into an AMEX card with a finite spending ability which essentially functions as a debit card." The Taxpayer was informed not to drive at night or on the interstate, at the risk of losing his driving privileges.

Taxpayer Exhibit 5 is a printout of communications history from the Veterans Affairs ("VA") portal. The communications do not contain any report on the Taxpayer's wellbeing. However, the communications do reflect that Taxpayer's daughters attempted to file a PoA with the VA and further tried to get the VA to communicate with them regarding the Taxpayer's cognitive decline, scheduling an

appointment, and possible treatment. It appears that an appointment was scheduled but that the Taxpayer attended that appointment on his own. Elizabeth explained that Taxpayer Exhibit 5 speaks to the challenges they faced in navigating the VA medical system.

Taxpayer Exhibit 6 is a printout of the Taxpayer's account and payment history from the New Orleans Sewerage and Water Board website. Elizabeth explained that the payment history shows large overpayments. She described some of the payments as more than ten times the amount actually due. According to her testimony, these overpayments speak to the Taxpayer's inability to handle his financial matters.

Taxpayer Exhibit 7 consists of two pages of bank records from Hancock-Whitney Bank. The first page is a Checking Account Summary. The majority of the transaction records are redacted. However, there are two handwritten notations. One is next to a circled account number and says: "since closed b/c hacked." The other notation is below the account holder name and address and states: "NOTE WHEN DAUGHTERS ADDED TO ACCOUNT." This is corroborated by the named account holders, which include the names of the Taxpayer's daughters. The second page shows a handwritten notation stating: "closed due to theft." Elizabeth testified that the documents evidence the addition of herself and her sister to the account, which occurred in the spring of 2023.

Elizabeth testified that she and her sister did not learn of the tax overpayments until they took over the Taxpayer's tax affairs in the summer of 2025. Prior to that time, she and her sister had no indication that the Taxpayer had missed any tax filings. She took the Taxpayer at his word when he said that he was managing his tax affairs. She and her sister were alerted to how serious the Taxpayer's financial situation was only once utilities and other essential services to the Taxpayer were cut

off. Once they learned of the failure to manage the tax affairs they acted immediately to rectify the problems discovered.

Discussion

Exception of Prescription

Ordinarily, the party raising the exception of prescription bears the burden of proving that the petition is prescribed. *Spott v. Otis Elevator Co.*, 601 So.2d 1355, 1361 (La. 1992). However, when the petition is prescribed on its face, then the burden of proof shifts to the plaintiff to show that the action has not prescribed. *Williams v. Sewerage & Water Bd. of New Orleans*, 611 So.2d 1383, 1386 (La. 1993). Evidence may be introduced to support or controvert the peremptory exception of prescription, when the grounds thereof do not appear from the petition. La. C.C.P. art. 927, 931; *Campo v. Correa*, 2001-2707, p. 12 (La. 6/21/02), 828 So.2d 502, 511.

La. R.S. 47:1623(A) provides:

> After three years from the 31st day of December of the year in which the tax became due or after one year from the date the tax was paid, whichever is the later, no refund or credit for an overpayment shall be made unless a claim for credit or refund has been filed with the secretary by the taxpayer claiming such credit or refund before the expiration of said three-year or one-year period. The maximum amount which shall be refunded or credited shall be the amount paid within said three-year or one-year period. The secretary shall prescribe the manner of filing claims for refund or credit.

There is no dispute that the Taxpayer's refund claim is untimely under the three-year and one-year periods established in La. R.S. 47:1623(A). There is also no dispute that none of the statutorily established grounds for suspension of prescription enumerated within La. R.S. 47:1623 apply. The only question is whether the Board should find that the jurisprudential doctrine of Contra non valentem applies to suspend prescription.

Contra non valentem

La. C.C. art. 3467 states: "Prescription runs against all persons, unless exception is established by legislation." Additionally, "[p]rescription runs against

absent persons and incompetents, including minors and interdicts, unless exception is established by legislation." La. C.C. art. 3468; *Blake v. Maley*, 46,036, p. 10 (La. App. 2 Cir. 1/26/11), 57 So.3d 1122, *writ denied*, 2011-0602 (La. 4/29/11), 62 So.3d 114. Nevertheless, Louisiana courts apply the equitable common law doctrine of Contra non valentem to suspend the running of prescription in exceptional circumstances. *See Specialized Loan Servicing, LLC v. January*, 12-2668 (La. 6/28/13), 119 So.3d 582; *Carter v. Haygood*, 04-646 (La. 1/19/05), 892 So.2d 1261; *Corsey v. State, through Dep't. of Corrections*, 375 So.2d 1319 (La. 1979). Contra non valentem is an exceptional remedy recognized by our jurisprudence which is in direct contradistinction to articles in our Civil Code. *Harsh v. Calogero*, 615 So.2d 420, 422 (La. Ct. App. 1993). Therefore, it is a doctrine that must be strictly construed. *Id.*

There are four grounds for applying Contra non valentem, which have been identified by the Louisiana Supreme Court as:

> (1) where there was some legal cause which prevented the courts or their officers from taking cognizance of or acting on the plaintiff's action;
>
> (2) where there was some condition coupled with the contract or connected with the proceedings which prevented the creditor from suing or acting;
>
> (3) where the debtor himself has done some act effectually to prevent the creditor from availing himself of his cause of action; or
>
> (4) where the cause of action is neither known nor reasonably knowable by the plaintiff even though plaintiff's ignorance is not induced by the defendant.[3]

Here, the Taxpayer seeks to invoke the fourth ground for applying the doctrine.

Generally, "laws regulating the collection of taxes are sui generis and constitute a system to which the general provisions of the Civil Code have little, if any application." *Church Point Wholesale Beverage Co., Inc. v. Tarver*, 614 So.2d 697, 708 (La. 1993). However, as stated above, the doctrine of Contra non valentem is itself a jurisprudential exception to rules of the code of civil procedure. La. C.C.P. art. 3467,

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[3] *Marin v. Exxon Mobil Corp.*, 2009-2368, p. 12 (La. 10/19/10), 48 So.3d 234, 245.

comment (d). Therefore, the Board looks to the jurisprudence for guidance in determining whether the doctrine can be invoked in the tax context.

Application of the doctrine to a taxpayer's failure to timely pay property tax under protest was considered by the Fourth Circuit in *NOHC, Inc. v. Williams*, 2022-0248 (La. App. 4 Cir. 12/6/22) 363 So.3d 1229, *on reh'g* (Mar. 22, 2023), *writ granted*, 2023-00571 (La. 6/26/23), 363 So.3d 1229, and *cause dismissed*, 2023-00571 (La. 8/1/23). The taxpayer in *NOHC* was a non-profit that operated a commercial building referred to as the "Healing Center" in the Bywater neighborhood of New Orleans. The taxpayer applied to the assessor for a non-profit exemption from property tax. The assessor denied the exemption and sent the taxpayer a tax bill.

In December of 2019, the city of New Orleans suffered a cyber-attack. The attack caused numerous problems with the city's systems. Because of the cyber-attack, the city issued a blanket extension of time to February 14, 2020, to pay property taxes. Intending to challenge the denial of the non-profit exemption, the taxpayer paid its taxes under protest. The Taxpayer made its protest payment after the original deadline had passed but before the extended deadline had passed. The taxpayer then filed suit in district court.

The assessor argued that the city had no authority to extend the tax payment deadline and that any extension the city might have granted for the payment of tax did not apply to the payment of tax <u>*under protest*</u>. The taxpayer argued that the extension was valid. Moreover, the taxpayer claimed that it could not reasonably have known that the extension did not apply to payments of tax under protest.

On this issue,[4] the Court ruled in favor of the assessor. The Court relied on the fact that the Assessor sent a tax bill stating that the taxes would become delinquent

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[4] It may be noted that the decision on Contra non valentem in *NOHC* was only one component in the Court's opinion. In its initial decision, the Court ruled in favor of the taxpayer on the detrimental reliance claim. However, on rehearing the Court reversed itself, rejected detrimental reliance, and sustained the exception of prescription. As is indicated by the subsequent history in the citation, the Louisiana Supreme Court granted writ of certiorari from the Fourth Circuit's decision. However, the matter was resolved out of court and dismissed without a ruling.

on February 1, 2020. Because of that notice, the Court charged the taxpayer with constructive knowledge of its cause of action. Additionally, the Court observed that the taxpayer had not shown it was actually prevented from paying its taxes under protest by the non-extended January 31, 2020 deadline.

In *Maison Blanche, Inc. v. Louisiana Dep't of Labor, Office of Employment Sec.*, 604 So.2d 670, 674 (La. Ct. 1 App. 1992), *writ denied*, 608 So.2d 178 (La. 1992), the First Circuit reversed an application of Contra non valentem to the prescriptive period for claiming a refund of unemployment compensation contributions. Like a claim for refund of income tax, the claim for refund of unemployment compensation contribution overpayments in *Maison Blanche* was subject to a three-year prescriptive period, running from the date of payment under La. R.S. 23:1551. The plaintiff had acquired three department stores from another predecessor-seller entity on February 15, 1982. After the purchase, the plaintiff might have been entitled to a refund of contributions based on the rate paid by the predecessor-seller. However, the Department of Labor, Office of Employment Security ("Employment Security") did not automatically apply the new rate and the claimant did not act to claim a refund until September 14, 1987.

For the untimely claim periods,[5] the Court engaged in a Contra non valentem analysis. The Court noted that the claimant was free to apply for a refund without needing to first obtain any of the confidential or inaccessible records attributable to the predecessor-seller entity. Furthermore, the claimant was not actually required to prove it was entitled to a refund, and should have acted to preserve its rights before prescription ran. The Court held the claimant had constructive knowledge of its claim simply by virtue of the acquisition. Moreover, Employment Security did not have greater access to the information than the claimant.

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[5] For some periods at issue, the Court determined that the claims were timely.

In a prior decision, this Board engaged in the Contra non valentem analysis in ruling on an exception of prescription raised against a refund claim. *Elston v. Department*, B.T.A. Docket No. 12588C (La. Bd. Tax App. 07/13/22); 2022 WL 5237069. In *Elston*, the taxpayers' Contra non valentem argument relied on the facts that: they had lost the use of their home, where they kept their tax records, for two-and-a-half years due to flooding; they lost communication with their tax-filing assistant after changing office locations; and one of the married taxpayers was diagnosed with cancer. The Board sympathized with the taxpayers' situation, but found no evidence that their circumstances had rendered them unaware of their filing obligation or that they had failed to file their return. The Board also noted that one of the taxpayers was an experienced tax preparer and should have known of their obligation to timely submit their refund claim.

From the limited guidance above, it appears that the Courts and the Board have been willing to, at a minimum, engage in a Contra non valentem analysis in the tax law or comparable contexts. Notably, the Fourth Circuit in *NOHC* did not reject the possibility of applying the doctrine out of hand merely because the case before it dealt with tax law. Thus, the Board finds no definitive prohibition against applying the doctrine in the context of a tax refund claim. However, it is clear that the doctrine is a jurisprudential exception to statutory law and it must be strictly construed.

The Fourth Ground for Applying Contra Non Valentem

As stated above, this case presents an attempt to invoke the fourth ground for applying Contra non valentem. The fourth ground for Contra non valentem is based on the theory that when a claimant is not aware of the facts giving rise to their cause of action against a defendant, the running of prescription is suspended until they actually discover or are constructively charged with discovering, the facts on which their action is based. *Wells v. Zadeck*, 11–1232 (La. 3/30/12), 89 So.3d 1145; *Kilpatrick v. Kilpatrick*, 625 So.2d 222 (La. App. 2 Cir. 9/22/93), *writ denied*, 631 So.2d 445 (La.

1994). The claimant will be deemed to have constructive knowledge of facts that they could have discovered with reasonable diligence. *Caro v. Bradford White Corp.*, 96–120 (La. App. 5 Cir. 7/30/96), 678 So.2d 615. Additionally, "the ultimate issue in determining whether a plaintiff had constructive knowledge sufficient to commence a prescriptive period is the reasonableness of the plaintiff's action or inaction in light of his education, intelligence, and the nature of the defendant's conduct." *Campo v. Correa*, 01–2707 (La. 6/21/02), 828 So.2d 502; *Griffin v. Kinberger*, 507 So.2d 821 (La. 1987).

Mental Incapacity

In explaining the doctrine, the Louisiana Supreme Court has stated, "a person whose ignorance of his cause of action or inability to assert it is the result of his own mental incapacity cannot claim the benefits of this rule . . . ." *Corsey*, 375 So.2d at 1323 (citing *Israel v. Smith*, 302 So.2d 392 (La. App. 3 Cir. 1974); *Buvens v. Buvens*, 286 So.2d 144 (La. App. 3 Cir. 1973), *Lassere v. Lassere*, 255 So.2d 794 (La. App. 4 Cir. 1972); *Perrodin v. Clement*, 254 So.2d 704 (La. App. 3 Cir. 1971)). The Court further stated, "a plaintiff cannot invoke Contra non valentem to escape the running of prescription based merely upon his inability to attend to his affairs because of his personal illness . . . at least when this illness arises independently of any fault on the part of the defendant." *Corsey*, 375 So.2d at 1323 (citing *Ayres v. New York Life Ins. Co.*,219 La. 945, 54 So.2d 409 (1951)). There is no allegation in this case of fault on the part of the Department.

Thus, the Taxpayer's mental incapacity does not automatically suspend the running of prescription. *Harsh v. Calogero*, 615 So.2d 420 (La. Ct. App. 4 Cir. 1993). The plaintiff in *Harsh v. Calogero* fell from a balcony owned by the defendant on October 1, 1988.[6] She was hospitalized and in a coma for two weeks. After she awoke,

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[6] The plaintiff in *Harsh* also that the defendant's negligence in maintaining the premises was the cause of the fall and her resulting incapacity. Thus, she tried to invoke both the third and fourth grounds for applying the doctrine.

for roughly four weeks, she was in "such a mental stupor" that she could not remember the facts surrounding the accident. *Id.* at 423. Her memory of the accident did not return until about six weeks after the fall. She was discharged from the hospital on December 8, 1988. However, she would not file suit until May 22, 1990. In her suit, Plaintiff alleged that she still suffered "severe closed head injuries, which caused brain hemorrhaging and contusions, partial paralysis, partial loss of vision, speech impairment, significant loss of cognitive abilities and large memory deficits." *Id.* at 421.

The Court held:

> The plaintiff was in a coma for two weeks. During this period prescription was suspended. During approximately the next four weeks the plaintiff was still in such a mental stupor that she could not even remember the facts surrounding her accident. During this period prescription was suspended. However, once the plaintiff regained such faculties so as to be able to recall the facts surrounding her accident, prescription commenced.
>
> In the instant case, the plaintiff knew within six weeks of her accident, the facts which surrounded the incident. She knew that she tripped on the balcony and that she fell. She was also able to communicate her version of the facts to other people. The plaintiff admits that she spoke frequently about the accident with her boyfriend. Clearly, although the plaintiff may have suffered injuries which have affected her cognitive ability, she was not in such a stupor as to not know the cause of her injury. Thus, unlike the plaintiff in *Corsey*, Harsh knew the circumstances of her injuries but was merely ignorant of her legal remedies. No one may avail himself of ignorance of the law. La. C.C. art. 5.

Id. at 423. The Court also noted that during her purported incapacity, the plaintiff applied for governmental benefits. When she was denied the benefits because she lived with someone who already received benefits, she moved. She also filed for a transportation pass with reduced fare on account of her disability. The Court found that these actions demonstrated that the plaintiff was not so incapacitated that she could not file a petition to protect her rights.

Harsh demonstrates that severe incapacity is needed to invoke the doctrine of Contra non valentem. The Court in *Harsh* opined that a comatose state or "such a

mental stupor" that the plaintiff cannot remember the facts giving rise to their claim is sufficient to suspend prescription. However, once knowledge of the facts returned, any suspension of prescription ended. Moreover, mere incapacity is not sufficient to justify applying the doctrine.

Here, the evidence seems to establish that at some point between the beginning of 2022 and the end of 2023, the Taxpayer was no longer capable of managing his financial affairs. There is even a specific statement as to the Taxpayer's failure to file his taxes in the doctor's notes. However, merely being unable to manage one's own financial affairs is not a sufficient basis for applying Contra non valentem. Further, the fact that Taxpayer had not filed his returns does not necessarily mean that he was unaware of his obligation to do so or that he was unable to recall his overpayment. It seems most likely that the Taxpayer had periods of lucidity and periods of incapacity. Considering the strict construction the Board must adhere to in applying the doctrine, the Board finds that the facts in this case do not support application of Contra non valentem to suspend prescription under La. R.S. 47:1623.

Conclusion

For the foregoing reasons, the Board's Judgment has sustained the Exception of Prescription. Here, there is no dispute that the refund claim was untimely under La. R.S. 47:1623, and no basis for suspension of prescription established by that statute apply. The Taxpayer relies instead on the doctrine of Contra non valentem, specifically as concerns a claimant who does not know, and could not reasonably have known of the facts giving rise to their claim. The Taxpayer's evidence shows he was mentally incapable of managing his financial affairs. However, that degree of incapacity is not severe enough to justify application of Contra non valentem, which requires something akin to a comatose state or such a mental stupor as to be unable to recall the facts underlying the claim. Because Contra non valentem is not

applicable, and no other exception to prescription under La. R.S. 47:1623 applies, the Taxpayer's refund claims are prescribed.

BATON ROUGE, LOUISIANA, THIS 5th DAY OF NOVEMBER, 2026.

FOR THE BOARD:



CHAIRMAN FRANCIS J. "JAY" LOBRANO
LOUISIANA BOARD OF TAX APPEALS