

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
K. GOWRAPPAN

) OTA Case No. 19115484
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OPINION

Representing the Parties:

For Appellant: Michael T. Arnold

For Respondent: Eric R. Brown, Tax Counsel III

N. DANG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) 19324, K. Gowrappan (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s refund claim for the 2017 tax year.

Appellant waived the right to an oral hearing, and therefore, we decide the matter based on the written record.

ISSUE

Whether there is reasonable cause to abate the late-payment penalty and interest.

FACTUAL FINDINGS

1. Appellant’s 2017 tax liability was paid late, resulting in interest accrual of \$4,528.28.
2. FTB also imposed a \$10,660.05 late-payment penalty and a \$3,147 underpayment of estimated tax penalty.
3. Appellant filed a timely refund claim requesting abatement of the late-payment penalty and interest due to reasonable cause.

DISCUSSION

The late-payment penalty shall not apply if the failure to pay tax on or before the prescribed deadline was due to reasonable cause and not willful neglect. (R&TC, § 19132(a).)

The standard of reasonable cause requires the taxpayer to establish that the failure to timely act occurred despite the exercise of ordinary business care and prudence. (See *United States v. Boyle* (1985) 469 U.S. 241, 246.)¹ Taxpayers carry the burden of establishing that reasonable cause exists to abate the penalty. (*Appeal of Beadling* (77-SBE-021) 1977 WL 3831.)

Appellant contends that the complexity of computing the tax owed, appellant's inability to obtain "certain tax information," and the limited time and resources available as a result of appellant's substantial work-related travels all prevented appellant from making a timely payment.

Appellant's asserted lack of documentation or difficulty in calculating a tax liability does not, by itself, constitute reasonable cause. (*Appeal of Sleight* (83-SBE-244) 1983 WL 15615.) The standard of ordinary business care and prudence requires taxpayers to make a timely payment based upon a reasonably accurate estimate of their tax liability. (*Ibid.*) Where a reasonable estimate could not be made due to a lack of information, the taxpayer must *substantiate* that the taxpayer made efforts to acquire that information, and difficulty in obtaining that information directly caused the delay in payment. (*Appeal of Moren*, 2019-OTA-176P.)

Appellant has not provided any explanation or evidence indicating what information appellant allegedly needed to timely pay the tax, what steps were taken to obtain that information, or how, specifically, the failure to obtain this information prevented appellant from making a reasonable estimate of appellant's tax liability. We are therefore unable to determine from the record whether the late payment was caused by an error or negligence on appellant's part or whether appellant was actually prevented, despite the exercise of due care, from making a timely payment. Moreover, to the extent that appellant chose to prioritize other activities, such as appellant's work-related travels, over the timely payment of appellant's tax liability, it is well established that appellant must bear the consequence of that choice. (*Appeal of Triple Crown Baseball, LLC*, 2019-OTA-025P.)

Finally, the imposition of interest is mandatory and there is no basis for relieving interest based on reasonable cause. (*Appeal of Shubert* (79-SBE-161) 1979 WL 4202.)

¹ Because the relevant language of R&TC section 19132 pertaining to the reasonable cause exception is patterned after Internal Revenue Code section 6651, the federal courts' interpretation of the "reasonable cause" standard is persuasive authority in determining the proper construction of this California statute. (*Andrews v. Franchise Tax Bd.* (1969) 275 Cal.App.2d 653, 658; *Rihn v. Franchise Tax Bd.* (1955) 131 Cal.App.2d 356, 360.)

HOLDING

There is no reasonable cause to abate the late-payment penalty and interest.

DISPOSITION

We sustain FTB’s action.

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Nguyen Dang
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Nguyen Dang
Administrative Law Judge

We concur:

DocuSigned by:
Huy "Mike" Le
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Huy "Mike" Le
Administrative Law Judge

DocuSigned by:
Josh Aldrich
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Josh Aldrich
Administrative Law Judge

Date Issued: 7/24/2020