

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
J. HUANG

) OTA Case No. 19115453
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OPINION

Representing the Parties:

For Appellant:

J. Huang

For Respondent:

Christopher Cook, Tax Counsel III
Greg W. Heninger, Program Specialist III

R.TAY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, J. Huang (appellant) appeals an action by the Franchise Tax Board (respondent) proposing additional tax¹ and interest for the 2015 tax year.

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

ISSUE

Whether appellant is entitled to interest abatement for the 2015 tax year.

FACTUAL FINDINGS

1. Appellant filed a timely 2015 joint California income tax return with her spouse² on April 15, 2016.
2. On January 12, 2018, respondent received information regarding adjustments to appellant’s 2015 federal income tax return. The Internal Revenue Service increased appellant’s income for amounts attributable to unreported pension income and dividends.

¹ Appellant does not dispute respondent’s proposed assessment of tax.

² Respondent issued its notices only to appellant and not her spouse. Thus, appellant’s spouse is not a party to this appeal.

3. Based on these federal adjustments, respondent issued a Notice of Proposed Assessment (NPA) on March 14, 2019, which included an assessment of additional tax and interest.
4. Appellant protested the NPA, stating that she did not know she owed additional California income tax. Respondent denied the protest.
5. Appellant made payments on September 15, 2019, and November 4, 2019, and filed a timely appeal seeking interest abatement.

DISCUSSION

Respondent is required to assess interest from the date when payment of tax is due through the date that it is paid. (R&TC, § 19101.) Imposition of interest is mandatory; it is not a penalty but is compensation for a taxpayer's use of money after it should have been paid to the state. (*Appeal of Yamachi* (77-SBE-095) 1977 WL 3905.) Here, appellant's 2015 income tax payment, which should have included the tax on the federal adjustments, was due on April 15, 2016. Appellant made tax payments after the due date on September 15, 2019, and November 4, 2019. Thus, respondent was required to assess interest because of appellant's late tax payment. Appellant has not alleged error in respondent's computation of interest and we also find no evidence of error.

To obtain relief from the imposition of interest, a taxpayer must show that the taxpayer qualifies under the waiver provisions of R&TC sections 21012, 19112, or 19104. Appellant has not made any arguments and has not provided any evidence on appeal to show that she is entitled to interest abatement under any of these provisions.³ Thus, we find no basis to grant interest abatement.

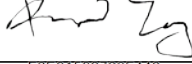
³ The Office of Tax Appeals held a conference with the parties, and subsequently, appellant had an opportunity to submit additional evidence in response to respondent's reply, but did not.

HOLDING

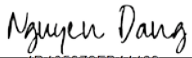
Appellant is not entitled to interest abatement for the 2015 tax year.

DISPOSITION

Respondent’s action is sustained.

DocuSigned by:

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Richard Tay
Administrative Law Judge

We concur:

DocuSigned by:

4D465973FB44469...
Nguyen Dang
Administrative Law Judge

DocuSigned by:

FD75A3136CB34C2...
Kenneth Gast
Administrative Law Judge

Date Issued: 10/19/2020