

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 19075078
PINKSTON PRODUCTIONS, INC.)
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OPINION

Representing the Parties:

For Appellant: Linda Pinkston, President

For Respondent: Joel M. Smith, Tax Counsel III

For the Office of Tax Appeals: William J. Stafford, Tax Counsel III

R. TAY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Pinkston Productions, Inc. (appellant) appeals the action of Franchise Tax Board (respondent) in denying appellant’s claim for refund totaling \$5,499.99 for the 2004 tax year.

Administrative Law Judges Richard Tay, Kenneth Gast, and Cheryl L. Akin held an oral hearing for this matter on September 30, 2020.¹ At the conclusion of the hearing, we left the record open to allow the parties to submit additional evidence. On November 5, 2020, after the parties submitted their briefs and exhibits, we closed the record and submitted this matter for decision.

ISSUE²

Whether appellant has shown that it is entitled to a refund of interest for the 2004 tax year.

¹ The oral hearing was scheduled to be held in Sacramento, California, but was conducted electronically due to COVID-19.

² Appellant’s claim for refund requested a refund of interest totaling \$5,439.99 and an alleged “overpayment” totaling \$60. On appeal, appellant does not present any arguments regarding its alleged overpayment of \$60. Therefore, we do not discuss this issue further.

FACTUAL FINDINGS

1. Appellant, a Maryland corporation, registered to do business in California with the Secretary of State in 2004.
2. Appellant filed its 2004 California corporate franchise or income tax return late on January 5, 2012. Appellant made late payments of tax, penalties, interest and other fees from April 2015, through July 2018, until it paid off its outstanding balance for the 2004 tax year.
3. Appellant submitted a timely claim for refund of interest dated February 20, 2019, which respondent denied in a Refund Claim Denial letter dated June 20, 2019.³ Appellant filed this timely appeal.

DISCUSSION

Interest is required to be assessed 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 appellant's use of money after it should have been paid to the state. (*Appeal of GEF Operating, Inc.*, 2020-OTA-057P.) To receive abatement from the imposition of interest on appeal, a taxpayer must qualify under the waiver provisions of R&TC sections 21012 or 19104. Appellant does not raise any specific arguments as to its qualification for the abatement of interest under these provisions.

Appellant claims to have detrimentally relied on its tax professional in the preparation and filing of its 2004 California corporate tax return. However, there is no reasonable cause exception to the imposition of interest on this basis. (*Appeal of GEF Operating, Inc.*, *supra.*) Additionally, appellant alleges it received confusing information and unhelpful service from respondent. While we acknowledge appellant's alleged difficulties, we find these allegations have no bearing on the interest imposed for appellant's 2004 tax year. Thus, appellant has not established any grounds for interest abatement as provided by statute, and we find none in the record.

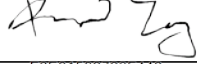
³ Appellant did not request a refund of the tax, penalties or fees for the 2004 tax year.

HOLDING

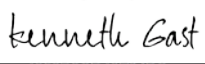
Appellant has not shown that it is entitled to a refund of interest.

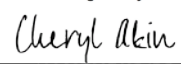
DISPOSITION

Respondent’s action denying appellant’s claim for refund is sustained in full.

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Richard Tay
Administrative Law Judge

We concur:

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Kenneth Gast
Administrative Law Judge

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Cheryl L. Akin
Administrative Law Judge

Date Issued: 12/23/2020