

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of:  
**J. KEEFER**

) OTA Case No. 22029812  
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**OPINION**

Representing the Parties:

For Appellant:	J. Keefer
For Respondent:	Nathan H. Hall, Tax Counsel III
For Office of Tax Appeals:	Andrew Delvasto, Graduate Student Assistant

K. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, J. Keefer (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of \$5,990 and applicable interest for the 2017 tax year. During this appeal, FTB has agreed to revise its proposed additional tax from \$5,990 to \$3,376.

Appellant waived the right to an oral hearing; therefore, the matter is being decided based on the written record.<sup>1</sup>

**ISSUE**

Whether appellant has established that interest should be abated.

**FACTUAL FINDINGS**

1. In 2017, appellant received a settlement payment in the amount of \$80,000 from a previous employer.

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<sup>1</sup> This appeal was originally noticed and scheduled to be held in person in Sacramento, California. On January 26, 2023, the Office of Tax Appeals held a prehearing conference in preparation of the hearing. Thereafter, appellant waived her right to an oral hearing and requested a decision based on the written record.

2. Appellant filed a timely 2017 California return. Appellant did not report the \$80,000 settlement payment on her return.
3. FTB received information from the IRS, showing that the IRS increased appellant's federal adjusted gross income (AGI) by \$80,000 based on the settlement payment.
4. Based on the information provided by the IRS, FTB issued a Notice of Proposed Assessment (NPA) increasing appellant's taxable income by \$80,000 (consistent with the IRS adjustments) and proposing additional tax of \$5,990 plus interest.
5. On January 18, 2022, FTB issued a Notice of Action, affirming the NPA.
6. During this appeal, FTB received additional information from appellant. FTB now agrees to reduce its assessment to \$3,376 of tax, plus applicable interest. Appellant agrees with the revised assessment, but requests abatement of interest. Thus, the issue on appeal is interest abatement.<sup>2</sup>

#### DISCUSSION

If any amount of the tax is not paid by the due date, interest is required to be imposed from the due date until the date the taxes are paid. (R&TC, § 19101(a).) Interest is not a penalty but is compensation for the taxpayer's use of money which should have been paid to the state. (*Appeal of Balch*, 2018-OTA-159P.) Imposition of interest is mandatory, and it can only be abated in certain situations when authorized by law. (R&TC, § 19101(a); *Appeal of Balch*, *supra*.) There is no reasonable cause exception to the imposition of interest. (*Appeal of Moy*, 2019-OTA-057P.) To obtain interest relief, appellant must qualify under R&TC section 19104 or 21012. (*Ibid*.) The relief of interest under R&TC section 21012 is not relevant here, because FTB did not provide appellant with any written advice. Under R&TC section 19104, FTB may abate interest if there has been an unreasonable error or delay in the performance of a ministerial or managerial act by an employee of FTB. (*Ibid*.)

On appeal, appellant requests interest abatement based on her misunderstanding of the tax law, noting a misunderstanding with respect to whether the settlement income was subject to tax. Appellant also points to her previous good filing history. However, there is no reasonable cause exception to the imposition of interest. (*Appeal of Moy*, *supra*.) Appellant has not asserted, and nothing in the record suggests that interest abatement is warranted under R&TC

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<sup>2</sup> Appellant's brief also requests relief from penalties. However, FTB did not impose any penalties and there are none at issue here.

section 19104 or 21012. Accordingly, appellant has not established that interest should be abated.

HOLDING

Appellant has not established that interest should be abated.

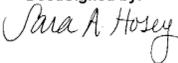
DISPOSITION

FTB’s action is modified in accordance with its concession to reduce the proposed tax from \$5,990 to \$3,376. Otherwise, FTB’s action is sustained.

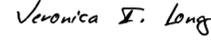
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Keith T. Long  
Administrative Law Judge

We concur:

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Sara A. Hosey  
Administrative Law Judge

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Veronica I. Long  
Administrative Law Judge

Date Issued: 7/5/2023