

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF, )  
 )  
D. RYAZANOV, ) OTA NO. 230112275  
 )  
 APPELLANT. )  
 )  
 )

## TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Wednesday, January 17, 2024

Reported by:  
ERNALYN M. ALONZO  
HEARING REPORTER

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Transcript of Electronic Proceedings,  
taken in the State of California, commencing  
at 9:35 a.m. and concluding at 9:47 a.m. on  
Wednesday, January 17, 2024, reported by  
Ernalyn M. Alonzo, Hearing Reporter, in and  
for the State of California.

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APPEARANCES:

Administrative Law Judge: JUDGE ANDREA LONG

For the Appellant: D. RYAZANOV

For the Respondent: STATE OF CALIFORNIA  
FRANCHISE TAX BOARD

DAVID MURADYAN  
BRAD COUTINHO

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I N D E X

E X H I B I T S

(Appellant's Exhibits 1-4 were received into the record pursuant to the minutes and orders dated August 31, 2023.)

(Department's Exhibits A-E were received into the record pursuant to the minutes and orders dated August 31, 2023.)

P R E S E N T A T I O N

P A G E

By Mr. Ryazanov	6
By Mr. Muradyan	9

C L O S I N G   S T A T E M E N T

P A G E

By Mr. Ryazanov	12
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California; Wednesday, January 17, 2024  
9:35 a.m.

JUDGE LONG: We are now on the record.

Good morning. I am Andrea Long, the  
Administrative Law Judge deciding this appeal. We are  
here today for the Appeal of Ryazanov. The OTA Case  
Number is 230112275. This hearing is taking place  
electronically on Wednesday, January 17th, 2024, at  
9:36 a.m.

We will begin with the parties stating their  
names and who you represent for the record. Let's start  
with FTB.

MR. MURADYAN: Hello. My name is David Muradyan,  
and I'm with the FTB.

MR. COUTINHO: Hello. My name is Brad Coutinho,  
and I'm also with the Franchise Tax Board.

JUDGE LONG: Thank you.

And, Appellant, you may also introduce yourself.

MR. RYAZANOV: Hello. My name is Dmytro  
Ryazanov.

JUDGE LONG: Thank you.

The parties have agreed that the issues before us  
today are whether Appellant has established reasonable  
cause to abate the late filing penalty for the 2019 tax

1 year; whether Appellant has established a basis to abate  
2 the estimated tax penalty for the 2019 tax year; and  
3 whether Appellant has established a basis to abate the  
4 interest for the 2019 tax year.

5 FTB submitted Exhibits A through E, and Appellant  
6 submitted 1 through 4. These exhibits were admitted into  
7 the record pursuant to the minutes and orders dated  
8 August 31st, 2023.

9 And I believe we are ready to begin with  
10 Appellant's testimony and presentation.

11 Mr. Ryazanov, you have 10 minutes for your  
12 presentation and testimony. I'm going to swear you in  
13 before you begin. So please raise your right hand.

14  
15 D. RYAZANOV,  
16 produced as a witness, and having been first duly sworn by  
17 the Administrative Law Judge, was examined, and testified  
18 as follows:

19  
20 JUDGE LONG: Thank you. You may begin.

21  
22 PRESENTATION

23 MR. RYAZANOV: Okay. Let me start by addressing  
24 the response I received from the FTB. One of the concerns  
25 was that interest is not a penalty but simply compensation

1 for a taxpayer's use of money after the due date of the  
2 tax. So I have to ask. When I overpaid taxes throughout  
3 the year and get a tax refund the following year, what  
4 interest does FTB pay me, the taxpayer, as a compensation  
5 for the use of my money? Then, the penalty is not for  
6 paying late but for filing late, and that's an interesting  
7 distinction. Does it mean that as long as I file on time,  
8 I can pay my taxes 10 years late with no penalties? If I  
9 can do that and pay the same interest as what FTB pays me  
10 for the use of my money, I will happily accept that offer,  
11 and I will drop this case.

12 As for reasonable cause, so according to FTB I  
13 have not demonstrated reasonable cause. In 2020, both the  
14 IRS and the FTB have moved the filing deadlines for  
15 everybody due to COVID. And let me emphasize this, not  
16 just the payment deadline, it was the filing deadline that  
17 was moved too. Clearly there was enough reasonable cause  
18 for that, even without individual taxpayers having to  
19 explain themselves. Now, in 2019 and 2020, I was working  
20 on my own startup. I was unpaid working for no salary. I  
21 was living off of my savings, the same savings that were  
22 destroyed thanks to the government's action in response to  
23 COVID. I was forced to shut down my company and figure  
24 out what I was doing, and the last thing on my mind was  
25 filing my taxes by July 15th. And honestly, I did not

1 have time to read the California tax code and actually did  
2 not know that filing taxes late would result in a \$4,000  
3 penalty.

4 And finally, I have to ask. Is this best use of  
5 FTB's time and resources? We have literal billionaires  
6 avoiding taxes. Let me ask. How much taxes do Elon Musk  
7 or Mark Zuckerberg pay? I was not able to find the most  
8 recent numbers, but in 2018 Elon Musk paid zero dollars in  
9 taxes, according to the best information I can find on the  
10 internet. Am I supposed to believe that he made no income  
11 that year, or does he just have better lawyers? So  
12 instead, FTB decides to go after people, such as myself,  
13 not for avoiding taxes, not lying on my tax returns, but  
14 for filing over five months late. The horror. Whose  
15 taxes are paying for this use of FTB's time? Well,  
16 certainly not Elon Musk.

17 And finally, this isn't just about the penalties.  
18 I'm here to call out FTB's hypocrisy of making rules that  
19 benefit themselves but not the taxpayers, such as charging  
20 interest but not paying interest and enforcing rules when  
21 it's easy and ignoring billionaires not paying their  
22 taxes. I want to see FTB enforce the rules towards  
23 everybody, then I will drop this case. But until then,  
24 I'm asking for my \$4,000 back.

25 I'm done. Thank you.



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JUDGE LONG: Thank you.

Does FTB have any questions for Mr. Ryazanov?

MR. MURADYAN: This is David Muradyan. No questions.

JUDGE LONG: Thank you.

This is Judge Long. I think we can move onto FTB's presentation.

FTB, you will also have 10 minutes for your presentation. You may begin when you are ready.

MR. MURADYAN: Thank you, Judge Long.

PRESENTATION

MR. MURADYAN: Good morning. My name is David Muradyan, and I'm here with my colleague, Brad Coutinho.

This case concerns a 2019 tax year, and there are three issues: The late filing penalty, the estimate tax penalty, and the abatement of interest. In this case, Appellant filed his 2019 tax return late on May 15, 2021, reporting a taxable income of over \$340,000 and a balance due after accounting for withholding credits of over \$12,000, which was paid with a late filed return on May 15th, 2021. FTB processed Appellant's return and assessed a late filing penalty of \$3,174 and an estimated tax penalty of \$380 plus interest. Appellant filed for a claim for refund, which FTB denied, and Appellant filed

1       this appeal with the OTA.

2               With respect to the first issue, the late filing  
3       penalty, Appellant has failed to show reasonable cause to  
4       support abatement as FTB imposed a penalty because  
5       Appellant failed to timely file his 2019 return on/or  
6       before July 15th, 2020, which was the extended due date  
7       resulting from COVID-19. Appellant argues that the  
8       COVID-19 pandemic caused lots of disruptions and that,  
9       although he filed his return late, FTB should abate the  
10      late filing penalty given the COVID-19 pandemic and all  
11      the issues surrounding that pandemic.

12             Respondent sympathizes with Appellant. However,  
13      simply referring to the COVID-19 pandemic and referring to  
14      actions done by those in the public office without  
15      demonstrating how those actions caused a late filing at  
16      issue, or what efforts Appellant made to get the  
17      documents, or timely estimate his tax due is insufficient  
18      to constitute reasonable cause. Furthermore, Appellant's  
19      arguments are not persuasive as they are more relevant for  
20      an examination of whether reasonable cause exist to abate  
21      a late payment penalty, the penalty that is not at issue  
22      in this case, as the penalty issue in this case is the  
23      late filing penalty.

24             The appropriate action for Appellant would have  
25      been to file a timely return with the information

1       available at the time and then file an amended return  
2       later if necessary. Also, in response to Appellant's  
3       statement during this appeal, the late filing penalty is  
4       charged when the Appellant has failed to make sufficient  
5       payments. In other words, in the example given, if, let's  
6       say Appellant has not made any payments but timely files  
7       the return, he will still get charged the late filing  
8       penalty. Because under R&TC 19131, it looks at, you know,  
9       how many payments Appellant has made.

10           Moving forward with the next issue at hand, which  
11       is the estimate tax penalty. With respect to that second  
12       issue, Appellant does not contest the computation of the  
13       penalty but rather argues that he could not make quarterly  
14       estimated payments because the actual gains and losses  
15       were not final until the end of the year, akin to a  
16       reasonable cause argument. However, R&TC section 19136  
17       nor IRC section 6654 provides for abatement of the  
18       estimate tax penalty for reasonable cause.

19           Finally, with respect to interest, the interest  
20       that accrued in this case is the result of Appellant's  
21       failure to timely file his 2019 tax return or timely pay  
22       his outstanding tax liability by the due dates. For these  
23       reasons FTB's denial of Appellant's claim for refund  
24       should be sustained.

25           And with that, I would be happy to take any

1 questions.

2 JUDGE LONG: This is Judge Long. Thank you.

3 I don't have any questions at this point.

4 Mr. Ryazanov, would you like an additional five  
5 minutes to make your rebuttal or a final statement?

6

7 CLOSING STATEMENT

8 MR. RYAZANOV: I believe I addressed almost  
9 everything in my statement already. The only rebuttal I  
10 would have for -- would be for the quarterly payments  
11 throughout the year, which I already explained originally.  
12 But basically, for the capital gains, in particular in my  
13 case, it was gains from the stock market, which are not  
14 only unpredictable throughout the year, but I can make  
15 money and lose money by the end of the year.

16 So it makes no sense for the FTB to charge  
17 penalties for me not to be making quarterly payments that  
18 are impossible to make because the gains are not known.  
19 And even if I were to make estimates and then lose a lot  
20 of money at the end of the year, can I file a quarterly  
21 payment -- quarterly refund from the FTB? I don't believe  
22 that's possible.

23 So that would be my only rebuttal.

24 JUDGE LONG: Thank you.

25 Again, I do not have any additional questions. I

1 believe that is the conclusion of the hearing today.  
2 Thank you everyone for joining this hearing. I'll be  
3 deciding this case based on the briefings, the arguments  
4 presented, Appellant's testimony, and the admitted  
5 evidence. I will send both parties the written opinion no  
6 later than 100 days from today.

7 Again, thank you for your participation. The  
8 case is now submitted, and the record is closed.

9 I believe there are no more hearings scheduled  
10 today. Therefore, this concludes the Office of Tax  
11 Appeals' January 17th, 2024, calendar.

12 Thank you.

13 (Proceedings adjourned at 9:47 a.m.)  
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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for  
the State of California, do hereby certify:

That the foregoing transcript of proceedings was  
taken before me at the time and place set forth, that the  
testimony and proceedings were reported stenographically  
by me and later transcribed by computer-aided  
transcription under my direction and supervision, that the  
foregoing is a true record of the testimony and  
proceedings taken at that time.

I further certify that I am in no way interested  
in the outcome of said action.

I have hereunto subscribed my name this 23rd day  
of January, 2024.

\_\_\_\_\_  
ERNALYN M. ALONZO  
HEARING REPORTER