

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 230212508
PRAXIS OPTICAL NETWORKS, INC.)
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OPINION

Representing the Parties:

For Appellant: Thomas Fuller, Representative

For Respondent: Alisa L. Pinarbasi, Attorney

N. RALSTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Praxis Optical Networks, Inc. (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$5,374.75 for the 2019 tax year.

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

ISSUE

Whether appellant has established reasonable cause to abate the late filing penalty.

FACTUAL FINDINGS

1. Appellant, a California corporation, filed its 2019, California Corporation Income Tax Return (return) on July 8, 2022.
2. Respondent processed appellant's return and imposed the late filing penalty because appellant's return was not filed by the July 15, 2020, COVID-19 extended due date.¹

¹ R&TC section 18572, which incorporates Internal Revenue Code section 7508A, gives respondent the authority to postpone certain tax-related deadlines. Respondent postponed the original payment due date from April 15, 2020, to July 15, 2020, due to the COVID-19 pandemic. (See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-8-state-income-tax-payments-due-by-july-15.html>.)

3. Appellant paid the amount due, and subsequently filed a claim for refund requesting that the late filing penalty be abated.
4. Respondent denied appellant's claim for refund due to its assessment that appellant failed to establish reasonable cause. This timely appeal followed.

DISCUSSION

California imposes a penalty for failing to file a return on or before the due date, unless the taxpayer shows that the failure is due to reasonable cause and not due to willful neglect. (R&TC, § 19131(a).) When respondent imposes a late filing penalty, it is presumed to have been correctly imposed, and the burden of proof is on the taxpayer to show that reasonable cause exists to abate the penalty. (*Appeal of Xie*, 2018-OTA-076P.) To overcome the presumption of correctness, the taxpayer must provide credible and competent evidence supporting a claim of reasonable cause. (*Ibid.*) To establish reasonable cause, the taxpayer must show the failure to timely file a return occurred despite the exercise of ordinary business care and prudence. (*Appeal of GEF Operating, Inc.*, 2020-OTA-057P.) Ignorance of a filing requirement or a misunderstanding of the law generally does not excuse a late filing. (*Ibid.*) Each taxpayer has a personal, non-delegable obligation to file a tax return by the due date. (*Appeal of Summit Hosting LLC*, 2021- OTA-216P, citing *U.S. v. Boyle* (1985) 469 U.S. 241.)

It is well settled that “general difficulty in making computations or determining taxable income with exactitude does not constitute reasonable cause for filing late.” (*Appeal of Xie*, *Supra.*) Nor is reasonable cause abatement warranted where the late filing is due to an oversight or mistake by the taxpayer. (*Appeal of Quality Tax & Financial Services, Inc.*, 2018-OTA-130P.)

Appellant contends that it was unable to timely e-file its return due to complications caused by the COVID-19 pandemic. Appellant asserts that due to federal, state, local and central precautionary measures offices were opening and closing on recurring basis which led to appellant overlooking the e-filing of its return. Appellant also notes that neither appellant nor its preparer has ever had an incident like this (presumably late filing its return) and requests that the penalty therefore be abated.

Here, appellant has not provided an explanation that would demonstrate reasonable cause for failing to timely file a 2019 tax return. Appellant has failed to provide evidence to show how the COVID-19 pandemic continuously prevented appellant from timely filing the return past the

extended due date, as opposed to merely making the task more burdensome. Appellant has not shown how it exercised ordinary business care and prudence in attempting to file its return timely and good filing history by itself is not sufficient to show reasonable cause. (*Appeal of Moren*, 2019-OTA-176P.)²

For the foregoing reason, OTA finds that appellant has not shown reasonable cause to abate the late filing penalty.

HOLDING

Appellant has failed to establish reasonable cause to abate the late filing penalty.

DISPOSITION

Respondent’s denial of appellant’s claim for refund is sustained.

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Natasha Ralston
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Natasha Ralston
Administrative Law Judge

We concur:

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Lissett Cervantes
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Lissett Cervantes
Senior Legal Typist, on behalf of
Eddy Y.H. Lam
Administrative Law Judge

DocuSigned by:
Josh Lambert
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Josh Lambert
Administrative Law Judge

Date Issued: 12/8/2023

² R&TC section 19132.5, effective for tax years beginning on or after January 1, 2022, allows an individual taxpayer to request a one-time abatement of a timeliness penalty. As the 2020 tax year is at issue here, this newly enacted provision is inapplicable.