

3. Appellants protested the NPA on May 25, 2021, and submitted a payment of \$6,930.36 on June 22, 2021. FTB affirmed its proposed assessment and issued a Notice of Action dated November 23, 2022.
4. This timely appeal follows.¹

DISCUSSION

Interest must be assessed from the date a tax payment is due through the date that it is paid. (R&TC, § 19101.) Imposing interest is mandatory; it is not a penalty, but it is compensation for appellants' use of money after it should have been paid to the state. (*Appeal of Moy*, 2019-OTA-057P.) Generally, to obtain relief from interest, taxpayers must qualify under R&TC section 19104 or 2012.5.² (*Ibid.*) Under R&TC section 19104, FTB is authorized to abate or refund interest if there has been an unreasonable error or delay in the performance of a ministerial or managerial act by an FTB employee.

Appellants allege that they are entitled to interest abatement because they did not receive any correspondence from FTB indicating there was an error on their 2017 California income tax return until they received FTB's NPA dated April 29, 2021. Thus, appellant argues they should be relieved of interest for the time they were unaware of the error on their return.

Appellants argument is unavailing. A taxpayer's lack of awareness of errors on its return is not grounds to award interest abatement. Moreover, FTB issued an NPA within the requisite timeframe allowed by the statute of limitations. (See R&TC, § 19057(a).) Appellants proffer no additional evidence showing unreasonable error or delay, and OTA also finds insufficient evidence in the record to justify interest abatement.

¹ On appeal, appellants do not contest the proposed assessment of tax; thus, FTB's proposed assessment of tax is not at issue and will not be discussed.


² Under R&TC section 21012, an individual may be relieved from interest if that person reasonably relies on FTB's written advice in response to a written request. Appellants do not allege this statutory provision for interest abatement applies to the facts of this case, and OTA agrees based its review of the written record.

HOLDING


Appellants have not shown they are entitled to interest abatement for the 2017 tax year.


DISPOSITION

FTB's action is sustained.

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Richard Tay
Administrative Law Judge

We concur:

DocuSigned by:

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Andrew Wong
Administrative Law Judge

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Keith T. Long
Administrative Law Judge

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