

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 230613620
ON1DESIGN LLC)
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OPINION

Representing the Parties:

For Appellant: Gregory Csikos, CPA

For Respondent: David Muradyan, Attorney
Nancy E. Parker, Attorney

H. LE, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, On1Design LLC (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$625 for the 2020 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single administrative law judge. (Cal. Code Regs., tit. 18, § 30209.05(b).) Office of Tax Appeals (OTA) Administrative Law Judge Huy “Mike” Le held an oral hearing for this matter electronically on February 23, 2024. At the conclusion of the hearing, the record was closed, and this matter was submitted for an opinion.

ISSUE

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

FACTUAL FINDINGS

1. On June 30, 2022, appellant untimely filed a 2020 Limited Liability Company Return of Income.

2. Respondent processed appellant's tax return and subsequently issued a Limited Liability Company Past Due Notice to appellant imposing, as relevant here, a late-filing penalty of \$625.
3. Later, appellant paid the balance due and filed a claim for refund seeking abatement of the late-filing penalty.
4. Respondent denied appellant's claim for refund, and 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.¹ (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 that the failure to file a timely return occurred despite the exercise of ordinary business care and prudence, or that such cause existed as would prompt an ordinarily intelligent and prudent businessperson to have so acted under similar circumstances. (*Appeal of Head and Feliciano*, 2020-OTA-127P.)

Appellant contends that it had reasonable cause for its failure to timely file its 2020 California tax return for two reasons. First, appellant argues that it was unaware of the requirement to file a tax return. However, ignorance or a misunderstanding of the law generally does not excuse a taxpayer's noncompliance with California tax laws. (*Appeal of Wright Capital Holdings LLC*, 2019-OTA-219P.) Second, appellant contends that a miscommunication occurred between appellant and its representative that caused its representative to believe that appellant had already filed its tax return. Appellant, however, has a nondelegable duty to file a tax return by the due date, and neither reliance on one's agent nor mere oversight qualify as reasonable cause. (*U.S. v. Boyle* (1985) 469 U.S. 241; *Appeal of Auburn Old Town Gallery*,

¹ There is no evidence in the record showing willful neglect or an allegation of willful neglect. Thus, the balance of this analysis will focus only on whether appellant meets the standard for proving reasonable cause.


LLC, 2019-OTA-319P.) Thus, appellant has not met its burden to establish reasonable cause for its failure to timely file its tax return.²

HOLDING

Appellant has not established reasonable cause to abate the late-filing penalty.

DISPOSITION

OTA sustains respondent's action denying appellant's claim for refund.

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Huy "Mike" Le
Administrative Law Judge

Date Issued: 4/15/2024

² Appellant also argues that the late-filing penalty should be forgiven based on principles of equity and administrative grace. But R&TC section 19131 does not provide a basis to abate the late-filing penalty based on principles of equity and administrative grace. Instead, R&TC section 19131 only provides a basis to abate the late-filing penalty based on reasonable cause. (R&TC, § 19131(a).)