

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of:	)	OTA Case No. 220610500
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<b>US ACQUIRECO INC</b>	)	
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**OPINION**

Representing the Parties:

For Appellant:	Vered Ben-Sadigh, Representative
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For Respondent:	Phillip C. Kleam, Attorney
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For Office of Tax Appeals:	Nguyen Dang, Attorney
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V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, US Acquireco Inc (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$6,753.78 for the 2018 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 a basis for abating the late-payment penalty and the estimated tax penalty.

**FACTUAL FINDINGS**

1. For the 2018 tax year, appellant owed no regular tax but incurred an alternative minimum tax (AMT) liability.
2. Appellant failed to account for the AMT in computing its tax liability and therefore did not make sufficient estimated tax payments or timely pay its tax liability for the 2018 tax year.
3. Respondent imposed a late-payment penalty and an estimated tax penalty.

4. Appellant paid the balance due and filed a claim for refund seeking abatement of the penalties.
5. Respondent denied the claim and this timely appeal followed.

### DISCUSSION

Appellant does not dispute that it failed to make sufficient estimated tax payments or timely pay its 2018 tax year liability, nor does appellant take issue with respondent's calculation of the penalty amounts. Rather, appellant argues only that the penalties should be abated because it was unable to timely account for the AMT due to a lack of information.

#### Late-Payment Penalty

The late-payment penalty shall not apply if the late payment was due to "reasonable cause" and not willful neglect. (R&TC, § 19132(a)(1).) To establish reasonable cause, a taxpayer must show that the failure to timely pay the taxes occurred despite the exercise of ordinary business care and prudence; that is, the taxpayer must show that the taxpayer acted as an ordinarily intelligent and prudent businessperson would have acted given the circumstances. (*Appeal of Moren*, 2019-OTA-176P.)

Where a taxpayer asserts reasonable cause based on a lack of information, such as here, a taxpayer must demonstrate that (1) the taxpayer was unable to reasonably estimate the taxpayer's tax liability without the information, and (2) the taxpayer did not have, and could not have, obtained the necessary information prior to the payment of the taxpayer's tax liability. (See *Appeal of Moren, supra*.) Asserted lack of documentation or difficulty in calculating a tax liability does not, by itself, constitute reasonable cause for a late payment of tax. (*Ibid.*)

Appellant provides no evidence or explanation in support of its argument. The Office of Tax Appeals is therefore unable to determine whether appellant was unable to reasonably estimate its tax liability due to a lack of information and whether appellant made any effort to obtain that information prior to the payment deadline. Moreover, to the extent appellant's failure to meet its tax obligations was due to an oversight or ignorance of the law, it is well established that such reasons do not constitute reasonable cause for abating the penalty. (*Appeal of Red Vision Systems, Inc.*, 2023-OTA-561P; *Appeal of Diebold, Inc.* (83-SBE-002) 1983 WL 15389.)

Accordingly, appellant has not shown reasonable cause for abating the late-payment penalty.

Estimated Tax Penalty

There is no reasonable cause exception to the estimated tax penalty imposed pursuant to R&TC section 19142. (See *Appeal of Weaver Equipment Co.* (80-SBE-048) 1980 WL 4976 [discussing the conditions for relief of the penalty imposed pursuant to R&TC section 25954, a predecessor statute to R&TC section 19142].) Although there are a few limited statutory exceptions to the penalty (see R&TC, § 19147), there is no argument or evidence that any of these exceptions apply here.


HOLDING

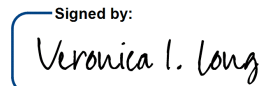
Appellant has not established a basis for abating the late-payment penalty and the estimated tax penalty.


DISPOSITION

Respondent's action is sustained.

We concur:

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Kenneth Gast  
Administrative Law Judge

Signed by:  
  
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Veronica I. Long  
Administrative Law Judge

Signed by:  
  
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Josh Lambert  
Administrative Law Judge

Date Issued: 8/14/2024