

4. Respondent denied the claims and appellants filed timely appeals which were consolidated for decision.

DISCUSSION

Appellants do not dispute that their Returns were untimely or respondent's calculation of the penalty amounts. Instead, appellants argue that the penalties should be abated because the unpaid balance upon which the penalties were computed was due to an inadvertent error by their tax return preparer which caused appellants' extension payments to be applied to the wrong account. Appellants point out that they promptly paid the outstanding balance upon learning of the error, they have good tax compliance history, and they made a good faith effort to timely pay their 2021 tax liabilities. Appellants also provide letters from the IRS showing they were granted first-time penalty abatement for the 2021 tax year.

The late-filing penalty shall not apply if the late filing was due to reasonable cause and not willful neglect. (R&TC, § 19131(a).) To establish reasonable cause for abating the penalty, the taxpayer must show that the failure to timely file a return occurred despite the exercise of ordinary business care and prudence; that is, the taxpayer must show that he or she acted as an ordinarily prudent and intelligent businessperson would have acted given the circumstances. (*Appeal of Quality Tax & Financial Services, Inc.*, 2018-OTA-130P.)

Appellants' explanation for their failed extension payment does not address what steps, if any, appellants took to ensure that their Returns would be timely filed, nor does it address the cause of appellants' late filing. Without this information, the Office of Tax Appeals (OTA) is unable to determine whether there is reasonable cause for appellants' late filing.

Although OTA understands that a timely extension payment in this case would have resulted in a zero penalty amount, this fact, and the reasons for why appellants were unable to make such a payment, do not excuse appellants' late filings; in fact, it is the opposite. Respondent states, and appellants do not dispute, that appellants' extension payments were refunded to appellants' trustee on June 13, 2022, months prior to the extended filing deadline of October 15, 2022. This should have put appellants on notice that they had an outstanding balance due for the 2021 tax year, making the timely filing of their Returns imperative to avoiding the late-filing penalties.

The other reasons offered by appellants are not valid grounds for abating the penalties. Although California law provides for a one-time abatement of a late-filing penalty for taxpayers with a good tax compliance history, this relief is applicable only for a late-filing penalty imposed for tax years beginning on or after January 1, 2022. (R&TC, § 19132.5.)

For the foregoing reasons, appellants have not shown reasonable cause for abating the penalties.

HOLDING

Appellants have not established a basis for abating the late-filing penalties.

DISPOSITION

Respondent’s actions denying appellants’ claims for refund are sustained.

We concur:

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Sara A. Hosey
Administrative Law Judge

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