

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: ) OTA Case No. 230613459  
D. STAHL AND )  
C. STAHL )  
\_\_\_\_\_ )

**OPINION**

Representing the Parties:

For Appellants: Debra Napier, EA

For Respondent: AnaMarija Antic-Jezildzic, Specialist

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, D. Stahl and C. Stahl (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants’ claim for refund of \$1,893.75 for the 2021 tax year.

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

**ISSUES**

1. Whether appellants have shown reasonable cause to abate the late filing penalty.
2. Whether appellants have established a basis to abate interest.

**FACTUAL FINDINGS**

1. Appellants filed a California Resident Income Tax Return for the 2021 tax year on November 25, 2022, reporting California tax of \$46,704. After applying California income tax withholding of \$39,129, appellants reported a tax due of \$7,575. Appellants also self-assessed interest and penalties of \$830. FTB received appellants’ total payment of \$8,405 on December 1, 2022.
2. FTB accepted the 2021 tax year return and issued a Notice of Tax Return Change – Revised Balance to assess a late filing penalty of \$1,893.75 and interest and fees of \$182.12. After applying appellants’ self-assessed interest and penalties of \$830,

the revised balance due is \$1,245.87 (\$1,893.75 +\$182.12 - \$830).

3. Appellants paid the balance due for the 2021 tax year and filed a timely claim for refund requesting a refund of the late filing penalty of \$1,893.75, and applicable interest.
4. FTB denied appellants' claim for refund and this timely appeal followed.

### DISCUSSION

#### Issue 1: Whether appellants have shown reasonable cause to abate the late filing penalty.

R&TC section 19131 imposes a penalty for the failure to file a return by the due date or the extended due date, unless the failure to file was due to reasonable cause and not due to willful neglect. To establish reasonable cause, a taxpayer must show that the failure to file a timely return occurred despite the exercise of ordinary business care and prudence, or that 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.) The burden of proof is on the taxpayer to show that reasonable cause exists to support an abatement of the late filing penalty. (*Appeal of Xie*, 2018-OTA-076P.)

Appellants do not contest the imposition or computation of the late filing penalty. Instead, appellants request that the late filing penalty be abated based on reasonable cause because they exercised ordinary care and prudence by having their taxes professionally prepared and the failure to file was due to events beyond their control. However, the fact that appellants relied on their tax preparer to file their return does not relieve them of their responsibility to ensure that it is timely filed. (*Appeal of Fisher*, 2022-OTA-337P.) To show the exercise of ordinary business care and prudence, appellants must do more than delegate the tasks necessary to timely file the return. (*Ibid.*) Appellants must also take appropriate corrective action. (*Ibid.*) Here, appellants have not established they took any steps to ensure compliance with the timely filing, but were otherwise prevented from complying. Therefore, appellants have not met their burden of proof to show that reasonable cause exists.

Appellants also point to their good filing history to request abatement of the late filing penalty. However, California does not allow first-time abatement of the late filing penalty for the 2021 tax year.<sup>1</sup> Thus, no relief is available on this basis.

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<sup>1</sup> R&TC 19132.5 authorizes first-time abatement of certain California income tax penalties for qualified individual filers effective for tax years beginning on or after January 1, 2022, which is not applicable to the 2021 tax year at issue in this appeal.

Issue 2: Whether appellants have established a basis to abate interest.

If any amount of tax is not paid by the due date, interest is required to be imposed from the due date until the date the taxes are paid. (R&TC, § 19101(a).) Interest is not a penalty but is compensation for the taxpayer's use of money that should have been paid to the state. (*Appeal of GEF Operating, Inc.* 2020-OTA-057P.) There is no reasonable cause exception to the imposition of interest. (*Ibid.*) To obtain relief from interest, a taxpayer must qualify under the waiver provisions of R&TC section 19104 (unreasonable error or delay), 19112 (extreme financial hardship), or 21012 (reasonable reliance on FTB's written advice).


On appeal, appellants only provide the same reasonable cause and good filing history arguments discussed above. Therefore, there is no basis for interest abatement.

HOLDINGS


1. Appellants have not shown reasonable cause to abate the late filing penalty.
2. Appellants have not established a basis to abate interest.


DISPOSITION

FTB's action in denying appellants' claim for refund is sustained.

DocuSigned by:  
  
 Erica Parker  
 Hearing Officer

We concur:

DocuSigned by:  
  
 Suzanne B. Brown  
 Administrative Law Judge

DocuSigned by:  
  
 Eddy Y.H. Lam  
 Administrative Law Judge

Date Issued: 9/26/2024