

) OTA Case No. 240115120

1. On October 11, 2022, appellants timely filed a joint 2021 California income tax return, reporting total tax of \$10,665, withholdings of \$3,736, and tax due of \$6,929. Appellants did not remit payment with the return.

2. Because appellants did not timely pay tax by the due date of April 15, 2022,¹ FTB imposed a late payment penalty of \$762.19, plus interest. FTB also imposed a collection cost recovery fee of \$316 because of collection actions taken by FTB.
3. On March 21, 2023, appellants made a payment of \$7,923.87 for the 2022 tax year. On the same day, the payment was cancelled and applied to the 2021 tax year. Appellants paid the remaining balance of \$317.02 on August 18, 2023.
4. Appellants filed a claim for refund of \$4,053.02.² This amount is comprised of withholdings of \$3,736 and the payment of \$317.02.
5. FTB denied the claim for refund and this timely appeal followed.³

DISCUSSION

The taxpayer bears the burden of proving entitlement to a refund. (*Appeal of Jali, LLC*, 2019-OTA-204P.) Appellants assert that they made a payment of \$7,983.27 that they mistakenly applied to the 2022 tax year, instead of the 2021 tax year. Appellants state that they are requesting a refund of the penalty, fee, and interest from the time that they made that payment in March 2023.⁴ FTB provides appellant's payment history for 2021, which shows that the payment of \$7,923.87 was applied to the 2021 tax year on March 21, 2023. Therefore, there is no basis to appellants' arguments that the payment was misapplied to the 2022 tax year. In addition, interest and the late payment penalty were not imposed due to an alleged misapplication of appellants' payment of \$7,923.87 to the 2022 tax year, but because appellants' 2021 tax was due on April 15, 2022, and was not fully paid until March 21, 2023. (R&TC, §§ 19001, 19101, & 19132.)

¹ The return due date for individuals filing on a calendar year basis is the 15th day of April following the close of the calendar year. (R&TC, § 18566.) However, Friday, April 15, 2022, was a federal holiday and therefore returns received on the following Monday, April 18, 2022, are considered by FTB to be timely filed. Therefore, the due date for payment of tax was April 18, 2022. (See R&TC, § 19001.)

² Appellant filed two claims for refund using FTB Form 2917: "Reasonable Cause – Individual and Fiduciary Claim for Refund." Both claims were for \$4,053.02 and request that all penalties, fees, and interest be refunded from the time tax was paid in March 2022.

³ FTB's claim denial letters state that the claim for refund of the late payment penalty and collection cost recovery fee are denied. To the extent appellants' claim for refund was not expressly denied by FTB, OTA treats such amounts as a deemed denial pursuant to R&TC section 19331.

⁴ Appellants do not specifically contend that the penalty, fee, and interest were improperly imposed, but that a payment was misapplied. Therefore, this Opinion does not address the imposition of the penalty, fee, or interest, but the application of the payment.

Appellants also contend that FTB seized \$3,736 from them in April 2022. However, this amount is tax withheld by appellant's employer that was reported by appellants on their tax return, and applied to appellants' 2021 tax year account on April 15, 2022, pursuant to R&TC section 19002(c)(1). In conclusion, appellants' contentions relate to an alleged misapplication of a payment and an improper seizure of funds; however, appellants have not shown any basis for these contentions.

HOLDING

Appellants are not entitled to the refund claimed for the 2021 tax year.

DISPOSITION

FTB's action is sustained.

Signed by:



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Josh Lambert
Administrative Law Judge

We concur:

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Sara A. Hosey
Administrative Law Judge

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Kenneth Gast
Administrative Law Judge

Date Issued: 1/28/2025