

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 230713927
K. YARLAGADDA AND)	
A. YARLAGADDA)	
)	
)	

OPINION

Representing the Parties:

For Appellants:	Divyang Shah, CPA
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For Respondent:	Noel Garcia-Rosenblum, Attorney
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L. KATAGIHARA, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, K. Yarlagadda and A. Yarlagadda (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of \$16,737 for the 2021 tax year.

Appellants waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellants have established reasonable cause to abate the late payment penalty.

FACTUAL FINDINGS

1. On or before April 15, 2022, appellants made payments, via withholdings and estimated payments, toward their tax liability for the 2021 tax year.
2. On October 18, 2022, FTB received another payment from appellants for the 2021 tax year.
3. On October 24, 2022, appellants filed their joint California Resident Income Tax Return for the 2021 tax year (return), reporting tax due. Appellants' October 18, 2022 payment satisfied the amount appellants reported as being due on their return.

4. FTB issued to appellants a Notice of Tax Return Change – Revised Balance, imposing a \$16,737 late filing penalty and applicable interest.
5. Appellants remitted the amount in full and filed a claim for refund of the late filing penalty, which FTB denied.
6. This timely appeal followed.
7. Upon request from FTB during this appeal, appellants provided evidence that they attempted to timely e-file their return on October 17, 2022, but the return was rejected.¹ Consequently, FTB now seeks to impose a \$5,690.58 late payment penalty in lieu of the \$16,737 late filing penalty.

DISCUSSION

R&TC section 19132 imposes a late payment penalty when a taxpayer fails to pay the amount shown as due on the return by the date prescribed for the payment of the tax. Generally, the date prescribed for the payment of the tax is the due date of the return (without regard to extensions of time for filing). (R&TC, § 19001.) Here, it is undisputed that appellants failed to timely pay the entirety of their tax liability by its due date of April 15, 2022. Therefore, the penalty was properly imposed.

The late payment penalty may be abated if the taxpayer shows that the failure to make a timely payment of tax was due to reasonable cause and was not due to willful neglect. (R&TC, § 19132(a)(1).) To establish reasonable cause for a late payment of tax, the taxpayer must show that the failure to make a timely payment occurred despite the exercise of ordinary business care and prudence. (*Appeal of Moren*, 2021-OTA-176P.) If the taxpayer asserts that the information necessary to make a reasonably accurate estimate of the tax liability was unavailable, the taxpayer must show the efforts made to acquire that information from the source that held it, and that the difficulties in obtaining the necessary information led to the delay in payment. (*Ibid.*) Unsupported assertions, including an assertion that information or records were difficult to obtain, are not sufficient to show reasonable cause. (*Ibid.*)

Here, appellants assert they had reasonable cause for their late payment of tax because it was not until appellants received their Schedule K-1s² that they learned they had

¹ If taxpayers file their return by October 15th, they receive an automatic extension, and a late filing penalty will not be imposed. (R&TC, § 18567; Cal. Code Regs., tit. 18, § 18567.) In 2022, October 15th fell on a Saturday, so the deadline was extended to October 17, 2022 (the following Monday). (Cal. Code Regs., tit. 18, § 18566.)

² A Schedule K-1 is issued by a pass-through entity, such as a partnership, to an owner, such as a partner, that reports the owner's share of the entity's income, deductions, and credits.

underestimated their income. However, appellants have not provided any evidence that they: (1) received their Schedule K-1s after April 15, 2022 (when full payment was due); (2) took steps to acquire their Schedule K-1s prior to the payment due date; or (3) otherwise exercised ordinary business care and prudence. Consequently, appellants' unsupported contentions are not sufficient to prove reasonable cause. (See *Appeal of Moren, supra.*)

Appellants also contend that the penalty should be abated because this was their first untimely payment and the penalty amount is too harsh. OTA does not have authority to abate the late payment penalty on these grounds.³ A history of timely compliance alone does not constitute reasonable cause. (*Appeal of Moren, supra.*) Moreover, the late payment penalty is imposed by and calculated according to the statutes passed by the California Legislature, and OTA is charged with enforcing the law as it is written. (See *Appeal of Sedillo*, 2018-OTA-101P.)

HOLDING

Appellants have not established reasonable cause to abate the late payment penalty.

DISPOSITION

FTB shall grant \$11,046.42 (\$16,737 - \$5,690.58) of appellants' claim for refund in accordance with FTB's concession on appeal. Otherwise, FTB's denial of appellants' claim for refund is sustained.

Signed by:



Lauren Katagihara
Administrative Law Judge

We concur:

DocuSigned by:



Eddy Y.H. Lam
Administrative Law Judge

DocuSigned by:



Erica Parker
Hearing Officer

Date Issued: 2/26/2025

³ R&TC section 19132.5 allows for, under certain circumstances, a one-time abatement of a timeliness penalty. However, that section applies to tax years beginning on or after January 1, 2022. (R&TC, § 19132.5(f).)