

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
U. STEINBACH) OTA Case No. 230513190
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OPINION

Representing the Parties:

For Appellant: U. Steinbach
For Respondent: Josh Ricafort, Attorney
Adam Susz, Attorney Supervisor

T. LEUNG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) sections 19324 and 19104(b)(2), U. Steinbach (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$8,280.07 for the 2017 taxable year.

Office of Tax Appeals (OTA) Administrative Law Judges Veronica I. Long, Amanda Vassigh, and Tommy Leung held an electronic hearing for this matter on January 16, 2025. At the conclusion of the hearing, the record was closed and this matter was submitted for an opinion.

ISSUE

Should interest for 2017 be abated?

FACTUAL FINDINGS

1. Appellant’s 2017 federal income tax return was examined by the IRS, which resulted in adjustments.
2. Appellant filed an amended California personal income tax return with respondent in 2022 reflecting the adjustments made by the IRS.

3. After remitting the additional tax she owed to respondent, appellant filed a claim for refund for the interest that she paid on those taxes, which respondent denied.

DISCUSSION

The imposition of interest is mandatory and accrues on a tax deficiency regardless of the reason for the underpayment. (R&TC, § 19101(a); *Appeal of Balch*, 2018-OTA-159P.) There is no reasonable cause exception to the imposition of interest. (*Appeal of Moy*, 2019-OTA-057P.) Interest is not a penalty, but is compensation for a taxpayer's use of money which should have been paid to the state. (*Ibid.*) Therefore, to obtain interest relief, appellant must qualify under R&TC section 19104 (pertaining to unreasonable error or delay by respondent in the performance of a ministerial or managerial act), 19112 (pertaining to extreme financial hardship caused by significant disability or other catastrophic circumstance), or 21012 (pertaining to reasonable reliance on the written advice of respondent). (*Ibid.*) Appellant either did not allege or the record does not show that the reliance on written advice waiver provision is applicable here. Therefore, there is no basis for abating interest under R&TC section 21012.

Appellant contends that the lengthy IRS examination due to COVID-19 and family health concerns delayed the resolution of her federal audit and ostensibly fall under the category of reasonable cause. Appellant also contends that the payment of interest would result in financial hardship, especially when combined with the economic impact of COVID-19.

Although appellant's circumstances are compelling, OTA lacks the authority to review respondent's denial of interest relief under R&TC section 19112; thus, this panel is unable to consider appellant's relief request based on financial hardship. (*Appeal of Moy, supra.*) In addition, as discussed above, interest cannot be abated based on reasonable cause. (*Ibid.*)

Finally, a denial of interest relief under R&TC section 19104 based on respondent's unreasonable delay may only be reviewed for an abuse of discretion. (R&TC, § 19104(b)(2)(B).) To show an abuse of discretion, a taxpayer must establish that, in refusing to abate interest, respondent exercised its discretion arbitrarily, capriciously, or without sound basis in fact or law. (*Appeal of Gorin*, 2020-OTA-018P.) However, in this case, the record shows no delay by respondent; instead, it was the lengthy IRS audit which resulted in the accrual of interest. Thus, relief under R&TC section 19104 is also not available in this appeal.

HOLDING

Interest for the 2017 taxable year cannot be abated.

DISPOSITION

Respondent's action is sustained.

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Tommy Leung
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Tommy Leung
Administrative Law Judge

We concur:

Signed by:
Veronica I. Long
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Veronica I. Long
Administrative Law Judge

DocuSigned by:
Lissett Cervantes
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_____ For
Amanda Vassigh
Administrative Law Judge

Date Issued: 4/16/2025