

BEFORE THE OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

IN THE MATTER OF THE APPEAL OF,)
)
H. MEKHTARIAN and N. MEKHTARIAN,) OTA NO. 230513302
)
)
APPELLANTS.)
)
)
_____)

TRANSCRIPT OF ELECTRONIC PROCEEDINGS

State of California

Tuesday, July 15, 2025

Reported by:
ERNALYN M. ALONZO
HEARING REPORTER

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APPEARANCES:

Panel Lead: ALJ KEITH T. LONG

Panel Members: ALJ JOHN O. JOHNSON
ALJ SETH ELSOM

For the Appellant: H. MEKHTARIAN
N. MEKHTARIAN

For the Respondent: STATE OF CALIFORNIA
FRANCHISE TAX BOARD

NOEL GARCIA-ROSENBLUM
NANCY PARKER

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I N D E X

E X H I B I T S

(Appellants' Exhibits 1-9 were received into evidence at page 7.)

(Department's Exhibits A-F were received into evidence at page 7.)

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California; Tuesday, July 15, 2025

10:30 a.m.

JUDGE LONG: We are opening the record in the Appeal of Mekhtarian. This matter is being held before the Office of Tax Appeals, and the case number is 230513302. Today's date is July 15th, 2025, and the time is approximately 10:30 a.m. This hearing is being convened electronically.

Today's hearing is being heard by a panel of three members. My name is Keith Long, and I will be the lead Administrative Law Judge. Judge John Johnson and Hearing Officer Seth Elsom are the other members of the this tax appeals panel. All three panel members will meet after the hearing and produce a written decision as equal participants. Although the lead judge will conduct the hearing, any panel member may ask questions or otherwise participate to ensure that we have all the information needed to decide this appeal.

As a reminder, the Office of Tax Appeals is not a Tax Court. It is an independent appeals body. The panel does not engage in ex parte communications with either party. OTA will issue an opinion based on the parties' arguments, the admitted evidence, and the relevant law.

For the record, will the parties please state

1 their name and who they represent, starting with the
2 representatives for Franchise Tax Board.

3 MR. GARCIA-ROSENBLUM: Good morning. My name
4 Noel Garcia-Rosenblum, representing Respondent Franchise
5 Tax Board.

6 MS. PARKER: Good morning. My name is Nancy
7 Parker. I also represent Franchise Tax Board.

8 JUDGE LONG: Thank you.

9 And for the taxpayer.

10 MR. MEKHTARIAN: Yes. Good morning. My name is
11 Hrayer Mekhtarian. I'm the taxpayer.

12 MRS. MEKHTARIAN: Good morning. This is Nancy
13 Mekhtarian. I'm also the taxpayer.

14 JUDGE LONG: Thank you.

15 The issues to be decided in today's appeal are:
16 One, whether Appellants have established reasonable cause
17 for the late filing of their return for the 2020 tax year;
18 and two, whether Appellants have established a basis for
19 abatement of the estimated tax penalty.

20 My understanding is that both Appellants intend
21 to testify today.

22 Mr. and Mrs. Mekhtarian, can you please confirm?

23 MR. MEKHTARIAN: Yes.

24 JUDGE LONG: Thank you.

25 MRS. MEKHTARIAN: Yes.

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JUDGE LONG: Thank you. Would you please both raise your right hands.

H. MEKHTARIAN,

produced as a witness, and having been first duly sworn by the Administrative Law Judge, was examined, and testified as follows:

N. MEKHTARIAN,

produced as a witness, and having been first duly sworn by the Administrative Law Judge, was examined, and testified as follows:

JUDGE LONG: Thank you. You may put your hands down.

The exhibits for this appeal consistent of FTB Exhibits A through F and Appellants' Exhibits 1 through 9. These exhibits were discussed at the prehearing conference, and they are admitted without objection.

(Appellants' Exhibits 1-9 were received into evidence by the Administrative Law Judge.)

(Department's Exhibits A-F were received into evidence by the Administrative Law Judge.)

JUDGE LONG: Today's hearing is expected to take approximately 45 minutes, and we will begin with

1 Appellants' opening presentation and witness testimony.

2 Mr. and Mrs. Mekhtarian, you requested 10 minutes
3 to make your presentation, and you may begin when ready.

4 MR. MEKHTARIAN: Yes. Thank you.

5

6 PRESENTATION

7 MR. MEKHTARIAN: Good morning, Your Honors. My
8 name is Hrayer Mekhtarian, and I appreciate the
9 opportunity to present my appeal regarding the 2020 tax
10 year.

11 The issues before you are whether my wife and I
12 had reasonable cause for the late filing for our tax
13 return, and whether we qualify for abatement of the
14 estimated tax penalty. The Franchise Tax Board has
15 asserted that my family hardship occurred after the
16 extended filing deadline of October 15th, 2021.
17 Respectfully that is not accurate.

18 In September of 2021, my mother-in-law contracted
19 a severe case of COVID-19. She was bedridden at home with
20 an oxygen mask and required 24-7 care. Due to the surge
21 in cases, there was no hospital beds available. My wife
22 and I were her primary caregivers during this time, and
23 were also supporting her elderly mother who was also ill.
24 This situation persisted to October 2021, directly
25 overlapping with the extended filing deadline.

1 Tragically, my mother-in-law passed away on
2 January 30th, 2022. I have submitted medical records, a
3 death certificate, and a signed statement from my wife to
4 substantiate this timeline.

5 Additionally, my long-term accountant, Mr. Dungy,
6 passed away unexpectedly on May 20 -- in May of 2021. I
7 relied on him for years and was unaware that he had not
8 filed my tax returns. His death left me without
9 professional guidance during a time of immense personal
10 crisis. I've submitted records to you, including a death
11 certificate from the family, that I received. These
12 events were not emotional -- were not only emotionally,
13 devastating, but also logistically overwhelming for my
14 family. I was unable to secure a new accountant or gather
15 necessary documents in time to file.

16 Under California law, reasonable cause exists
17 when a taxpayer exercises ordinary business care and
18 prudence but is still unable to comply. This standard was
19 affirmed in the Appeal of Belcher in the year 2021, OTA
20 284P, where the OTA recognized that serious illness in the
21 family can constitute reasonable cause when it directly
22 interferes with taxpayer's ability to meet their
23 obligations. I respectfully submit that my circumstances
24 meet and even exceed that threshold.

25 Regarding the estimated tax penalty, I understand

1 that abatement is more limited. However, I ask the panel
2 to consider the totality of the circumstances. The same
3 events that prevented me from filing also disrupted the
4 ability to manage estimated tax payments. In the Appeal
5 of D. Anglemyer 2025 case, OTA Case No. 230814113, the OTA
6 considered whether a taxpayer had reasonable cause for
7 both late payment and estimated tax penalties. While the
8 case was denied due to lack of documentation, the OTA
9 acknowledged that reasonable cause can apply if a taxpayer
10 provides sufficient evidence of hardship and diligence.
11 Unlike in that case, I provided detail documentation, a
12 clear timeline of events. I did not willfully neglect my
13 obligations. I was overwhelmed by a series of unforeseen
14 and tragic events.

15 Your Honors, I'm not here to avoid
16 responsibility. I'm here to ask for fairness and
17 compassion under law. I acted with care and prudence
18 under extraordinary difficult circumstances. I
19 respectfully request that the penalties for late filing
20 and estimated tax be abated based on reasonable cause.
21 I'd also like to emphasis that I've been a taxpayer in
22 good standing over 30 years, and I've consistently filed
23 my taxes on time. This is the first time I've encountered
24 such a situation, and I deeply regret the circumstances
25 that led to this appeal.

1 Thank you for your time and consideration.

2 JUDGE LONG: Thank you.

3 I have a couple of questions but first, I would
4 like to give my co-panelists the opportunity to ask
5 questions.

6 Hearing Officer Elsom, do you have any questions?

7 HEARING OFFICER ELSOM: I had a few questions,
8 Mr. Mekhtarian. You stated in your reply brief to FTB
9 that you had worked closely with your previous accountant
10 and he passed away in May of 2021. Can you explain how
11 you discovered that he passed away and what type of
12 correspondence you had maybe with staff members regarding
13 somebody else within the firm that could prepare the
14 returns, or if they referred you to somebody else that can
15 prepare --

16 MR. MEKHTARIAN: Yes. I --

17 HEARING OFFICER ELSOM: -- the returns.

18 MR. MEKHTARIAN: Thank you. The way I found out
19 is -- is through another firm. Our -- was another -- his
20 files were given to another accountant, another CPA. And
21 that CPA contacted me to let -- to advise me that that was
22 the situation. And he -- you know, that didn't happen
23 until past the October deadline. It was, I believe,
24 somewhere around November is when I found out that this
25 happened.

1 HEARING OFFICER ELSOM: Okay. And do you have
2 any emails or phone records or any other documents where
3 you can prove this communication with the preparer?

4 MR. MEKHTARIAN: Yes. I -- one of -- one of
5 the -- I had that CPA write an appeal documentation.
6 There was -- there's something on record on that where the
7 CPA wrote a -- basically, on the form, the actual appeal
8 form itself -- the abatement form I should say, excuse me.
9 The abatement form was filled out by the CPA attached with
10 the death certificate. So the CPA that took the file
11 provided that documentation.

12 HEARING OFFICER ELSOM: Okay. Thank you. And
13 then a follow-up question is that in your reply brief
14 also, you stated that your mother-in-law passed away. I
15 believe it was January 30 of 2022.

16 MR. MEKHTARIAN: Yes.

17 HEARING OFFICER ELSOM: And the return was not
18 filed until July of that year. Again, can you explain,
19 similarly, what type of correspondence you had with this
20 new preparer or any other preparers in that window --
21 approximate six-month window between -- or excuse me --
22 five-month window between your mother-in-law passing away
23 and when the return was filed.

24 MR. MEKHTARIAN: The correspondences was mainly
25 done in person. I -- I went to see our -- later in that

1 year where I had to pretty much -- well, first of all,
2 there was -- there was the emotional aspect of it, the
3 funeral we had to deal with. There was a lot of estate
4 planning situations that we had to deal with for my
5 mother-in-law. And there was -- the tax situation came
6 about when I went to Ara's [sic] office. So there was
7 several meetings that I had with Ara who would later file
8 the tax returns.

9 However the -- not all the files were transferred
10 over to him. So I had to look for additional
11 documentation to prepare the tax returns. So there was --
12 there's two tax returns. I had to prepare one for the
13 corporation -- excuse me -- one for the corporation that I
14 had, and then one for the personal tax returns. So he had
15 to prepare both of them. So one of them, the corporation,
16 was done first, and the personal was done afterwards.
17 However, it -- it took time. So I wasn't -- I didn't have
18 my documents in order. And the reason why it took until
19 July is because I had to gather all the information.

20 There was a lot of accounting things that had to
21 be entered into QuickBooks, which we were behind on. A
22 lot -- a lot of the business affairs that I had in 2021
23 were -- we were very behind as a result. So there was a
24 date -- data entry that had to be done in QuickBooks. So
25 I had to hire someone to enter a lot of these things that

1 were missed in -- in -- in the -- in the previous year.
2 So they had to be entered in manually. Si it took a
3 little bit of time for us to catch up with all the -- with
4 all the accounting.

5 HEARING OFFICER ELSOM: Okay. Thank you. No
6 additional questions for me.

7 JUDGE LONG: Thank you.

8 Judge Johnson, do you have any questions?

9 JUDGE JOHNSON: This is Judge Johnson. No
10 questions at this time. Thank you.

11 JUDGE LONG: Thank you.

12 I just wanted to clarify really quickly regarding
13 Mrs. Mekhtarian's statement, which was submitted. You
14 mentioned that the illnesses with respect to the COVID-19
15 for your mother-in-law occurred in September 2021; is that
16 correct?

17 MR. MEKHTARIAN: Yes.

18 JUDGE LONG: Okay. And so, I'm looking at the
19 statement, and I just want to confirm with
20 Mrs. Mekhtarian, because Mrs. Mekhtarian's statement
21 indicates that the dates of the illnesses were between
22 October '22 and January 2023.

23 And, Mrs. Mekhtarian, can you just confirm if
24 maybe if those are typographical errors or --

25 MRS. MEKHTARIAN: Yes. Yes. My mother -- my

1 mother got sick in September, and then a couple of weeks
2 later my grandma got sick. And my mother and grandmother
3 both lived together. So that is correct. And my mother
4 passed in January, and my grandmother passed in beginning
5 of February of 2022. Yeah.

6 JUDGE LONG: Thank you. I just want to make sure
7 that I had the timeline correct.

8 Okay. Well, before we go into Franchise Tax
9 Board's presentation, Franchise Tax Board does have the
10 opportunity to ask questions because you testified as
11 witnesses.

12 Franchise Tax Board, do you have any questions or
13 want to participate in cross-examination?

14 MR. GARCIA-ROSENBLUM: No, we do not. Thank you.

15 JUDGE LONG: Okay. Thank you.

16 Then we will continue moving forward.

17 Franchise Tax Board, you requested 10 minutes to
18 make your presentation, and you may do so when ready.

19 MR. GARCIA-ROSENBLUM: Perfect. Thank you.

20

21 PRESENTATION

22 MR. GARCIA-ROSENBLUM: Good morning. My name is
23 Noel Garcia-Rosenblum, and I, along with my co-counsel
24 Nancy Parker, represent Respondent Franchise Tax Board in
25 this matter.

1 There are two issues at appeal today: First,
2 whether the Appellants have demonstrated reasonable cause
3 to abate the late-filing penalty imposed during the 2020
4 taxable year; second, whether the Appellants have
5 demonstrated any basis to abate the estimated tax penalty
6 imposed during the same year.

7 Respondent received the Appellants' 2020
8 California tax return on July 1st, 2022, reporting a
9 balance due. Respondent accepted the tax return as filed
10 and imposed a late-filing penalty and estimated tax
11 penalty because the Appellants did not file their tax
12 return timely or make sufficient estimated tax payments.
13 The Appellants subsequently paid the penalties and filed a
14 claim for refund requesting the penalties be abated for
15 reasonable cause. This claim for refund was denied, and
16 the Appellants subsequently appealed the denial. The
17 Appellants do not dispute the imposition or calculation of
18 the late-filing penalty but rather, argue that they've
19 demonstrated reasonable cause.

20 In order to establish reasonable cause, a
21 taxpayer must show that the failure to file the timely
22 return occurred despite the exercise of ordinary business
23 care and prudence. The burden of proof is on the taxpayer
24 to show that reasonable cause exists to support an
25 abatement of the penalty, and unsupported assertions are

1 insufficient to satisfy a taxpayer's burden of proof.

2 In the current appeal, the Appellants make two
3 arguments for reasonable cause. First, the Appellants
4 argue that they interviewed and hired an accountant, Barry
5 Dungy, to complete their 2020 tax return. However, that
6 accountant passed away in May of 2021. The Appellants
7 further explain that they were not aware that their
8 accountant had passed away until late 2021. Therefore,
9 due to their accountant's passing, the Appellants contend
10 that these circumstances constitute reasonable cause to
11 abate the late-filing penalty.

12 It is well established that each taxpayer has a
13 personal nondelegable obligation to ensure the timely
14 filing of their own tax return; and reliance on an agent,
15 such an accountant, to file the tax return by its due date
16 is not reasonable cause. The fact that the Appellants
17 expected their accountant to attend to a matter does not
18 relieve the taxpayers of the duty to comply with the
19 statute. And an agent's failure to file a tax return
20 cannot, by itself, constitute reasonable cause.

21 Furthermore, the Appellants have not shown what steps they
22 took to ensure their 2020 tax return was filed by its due
23 date.

24 The Appellants did not maintain communication
25 with Mr. Dungy, as demonstrated by their lack of knowledge

1 of his death until late 2021, and have not shown what
2 actions they took, if any, to file their tax return once
3 they were informed of his passing. Therefore, the
4 Appellants' reliance on Mr. Dungy to file a tax return
5 does not constitute reasonable cause.

6 In addition, the Appellants contend that
7 reasonable cause exists because the Appellants' mother and
8 grandmother contracted COVID-19 during the end of 2021,
9 requiring constant care and, unfortunately, both passed
10 away in January and February of 2022. Illness or other
11 personal difficulties may be considered reasonable cause
12 if the taxpayers present credible and competent proof that
13 they were continuously prevented from filing a tax return.
14 Here, the Appellants have not met their burden of
15 establishing that their family hardship occurred before
16 the extended filing deadline for the 2020 taxable year,
17 which occurred on October 15th, 2021. While the
18 Appellants did provide hospital records, the
19 hospitalization occurred in January of 2022, approximately
20 three months after the extended deadline.

21 Lastly, the Appellants have not provided any
22 proof supporting their assertion that both spouses were
23 continuously prevented from filing their 2020 tax return
24 due to caring for their family prior to the extended
25 filing deadline. Therefore, while Respondent sympathizes

1 with the Appellants' loss and family hardship, the
2 Appellants have failed to establish that reasonable cause
3 existed under California law, and Respondent's imposition
4 of late filing penalty was proper.

5 Regarding the second issue on appeal, under
6 California law, taxpayers are liable for a penalty for
7 failing to make -- for failing to pay estimated taxes if
8 they fail to remit sufficient required payments. The
9 Appellants have not made any arguments for why the
10 estimated tax penalty should be waived in this case. The
11 extenuating circumstances relating to the Appellants'
12 request for abatement of the late-filing penalty occurred
13 after the estimated payment due dates and, therefore, do
14 not apply to the failure to make proper estimated tax
15 payments.

16 Furthermore, relief from the estimated tax
17 penalty is not available upon a showing of reasonable
18 cause. Therefore, extenuating circumstances are
19 irrelevant, and there is no basis for the estimated tax
20 penalty to be abated. In conclusion, Respondent properly
21 imposed the late-filing penalty and estimated tax penalty,
22 and the Appellants have failed to demonstrate any basis
23 for either penalty to be abated. Therefore, Respondent's
24 position should be sustained.

25 I'm happy to answer any questions you may have.

1 Thank you.

2 JUDGE LONG: Thank you.

3 Hearing Officer Elsom, do you have any questions?

4 HEARING OFFICER ELSOM: I do not have any
5 questions.

6 JUDGE LONG: Thank you.

7 Judge Johnson, do you have any questions?

8 JUDGE LONG: This is Judge Johnson. I do have a
9 question for Franchise Tax Board.

10 With regard to the estimated tax penalties when
11 those were -- estimated tax payments, I should say, when
12 those were supposed to be made. What was the last date
13 that the final estimated tax payment was supposed to be
14 made?

15 MR. GARCIA-ROSENBLUM: It would have been
16 January 15th of the year at issue. So it would have been
17 January 15th of 2020.

18 JUDGE JOHNSON: Okay. Thank you. And then with
19 regard to the late-filing penalty, that assuming the
20 situation that there was no return filed within the
21 extended period for filing -- and ignoring for the moment
22 just kind of interest abatement and adjustments made on
23 their amended return but just taking the late-filing
24 penalty to calculate at this time, when did that stop
25 occurring? When did it reach its maximum? Does that make

1 sense?

2 MR. GARCIA-ROSENBLUM: Could you re -- are you
3 asking when the max 25 percent penalty was --

4 JUDGE JOHNSON: Right. Right. How was that
5 calculated? When did it stop accruing?

6 MR. GARCIA-ROSENBLUM: So it would have been --
7 it would have stopped accruing about five months after the
8 original due date of the tax return. So, in this case --
9 let me consult my notes just to make sure with the COVID
10 extension. Sorry. Just one second. I want to make sure
11 I have the correct date, and I don't misspeak. So the --
12 due to the COVID-19 pandemic, the Appellants' original
13 return was due May 17th, 2021. So it would have been five
14 months after that, which would have been October 17th,
15 2021.

16 JUDGE JOHNSON: Okay. Thank you.

17 JUDGE LONG: Okay. Thank you.

18 Since there's no further questions, we will move
19 to our closing statement from Appellants.

20 Mr. Mekhtarian, you requested 5 minutes to make
21 your closing statement, and you may begin when you're
22 ready.

23 MR. MEKHTARIAN: Thank you.

24

25

CLOSING STATEMENT

1 MR. MEKHTARIAN: Your Honors, thank you again for
2 your time and allowing me to present my case. As I close,
3 I want to take a moment and remind the panel of the
4 extraordinary time period during which these events took
5 place. The year 2021 was not a normal year for any of us.
6 I -- it was a time when families across the country were
7 not thinking about taxes and deadlines. They were
8 thinking about survival. My family was no exception. We
9 were in the middle of a global pandemic. Caring for loved
10 ones was with grave -- gravely ill -- who were gravely ill
11 with COVID-19. My mother-in-law was fighting for her life
12 at home because there was no hospital bed available. My
13 wife and I, were all -- we're the only caregivers that
14 were available. We were doing everything we could to keep
15 her alive, while also supporting her elderly mother, who
16 was also sick. Tragically, we lost both of those members.

17 At the same time, you know, I had lost my
18 long-time accountant, that someone that I trusted. I was
19 left without professional guidance in the mist of
20 emotional and logistic chaos. I simply could not meet the
21 tax deadlines. I understand the importance of tax
22 compliance. I have been a taxpayer in good standing for
23 over 30 years. I've always filed my taxes on time. This
24 is the first time I have ever come to you requesting your
25 help, and hopefully, this will be my last.

1 But I ask you to consider this. If you were in
2 my shoes, and if your family was suffering, if your loved
3 ones were dying, and if your tax adviser had passed away,
4 would filing a tax return be your top priority? I believe
5 that family comes first, and I believe that the law
6 recognizes that sometimes life throws us into situations
7 where even the most responsible among us cannot meet our
8 obligations. The Office of Tax Appeals has acknowledged
9 in the past decisions that reasonable cause exist when a
10 taxpayer exercises ordinary care and prudence and is
11 prevented from complying due to circumstances beyond our
12 control. I believe our situation fits that standard.

13 So I respectfully ask you to consider, not just
14 the letter of the law, but the spirit of it. I ask you to
15 consider the human side of this case. I ask you to show
16 compassion and understanding for family that was doing its
17 best to survive during one of the most difficult times in
18 recent history.

19 Thank you for your time, attention, and your
20 service.

21 JUDGE LONG: Thank you.

22 If there are no further questions from my
23 co-panelists, I believe we're ready to conclude this
24 hearing.

25 Hearing Officer Elsom, do you have any final

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questions?

HEARING OFFICER ELSOM: I do not have any additional questions. Thank you.

JUDGE LONG: Thank you.

Judge Johnson, do you have any questions?

JUDGE JOHNSON: This is Judge Johnson. No questions and thank you for your testimony today.

JUDGE LONG: This case is submitted on Tuesday, July 15th, 2025. The record is now closed.

I just want to thank everyone for coming in today. The panel will meet and decide your case later on, and we'll send a written opinion of our decision within 100 days after the record is closed, which is today.

Today's hearing in the Appeal of Mekhtarian is now adjourned.

(Proceedings adjourned at 11:00 a.m.)

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HEARING REPORTER'S CERTIFICATE

I, Ernalyne M. Alonzo, Hearing Reporter in and for the State of California, do hereby certify:

That the foregoing transcript of proceedings was taken before me at the time and place set forth, that the testimony and proceedings were reported stenographically by me and later transcribed by computer-aided transcription under my direction and supervision, that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am in no way interested in the outcome of said action.

I have hereunto subscribed my name this 23rd day of July, 2025.

ERNALYN M. ALONZO
HEARING REPORTER