

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
RGNONTI BLEVINS AND ASSOCIATES LLC) OTA Case No. 240415848
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OPINION

Representing the Parties:

For Appellant: Nathan Blevins, Representative

For Respondent: Leoangelo C. Cristobal, Attorney

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Rgnonti Blevins and Associates LLC (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$575.14,¹ plus interest, for the 2020 tax year.

Appellant 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).

ISSUES

1. Whether appellant has established reasonable cause to abate the late filing penalty.
2. Whether appellant has established a basis to abate the per-shareholder late filing penalty (per-shareholder penalty).
3. Whether appellant is entitled to a waiver of the underpayment of estimated tax penalty (estimated tax penalty).
4. Whether appellant has shown a legal basis to abate interest.

FACTUAL FINDINGS

1. Appellant is an LLC that elected to be taxed as an S corporation for federal income tax purposes.

¹ The claim for refund is comprised of a late filing penalty of \$329, the per-shareholder late filing penalty of \$216, and the underpayment of estimated tax penalty of \$30.14.

2. Appellant did not file a timely 2020 California S Corporation Franchise or Income Tax Return (Form 100S).
3. FTB issued a Demand for Tax Return (Demand) after receiving information that appellant filed a 2020 federal tax return with a California address.
4. In response to the Demand, appellant filed a 2020 Form 100S reporting California net income of \$87,765, total tax of \$1,316, and penalties and interest of \$133. Appellant reported a maximum of one shareholder during the year.
5. FTB accepted the 2020 Form 100S and imposed a late filing penalty of \$329, a per-shareholder penalty of \$216, an estimated tax penalty of \$30.14, and applicable interest.
6. Appellant filed a claim for refund of the penalties and interest based on reasonable cause. Appellant explained it was unaware of its California tax obligations, but upon becoming aware, it made genuine efforts to comply.²
7. FTB denied the claim for refund.
8. Appellant filed this timely appeal.

DISCUSSION

Issue 1: Whether appellant has established reasonable cause to abate the late filing penalty.

R&TC section 19131 imposes a late filing penalty for the failure to file a return by the due date or the extended due date, unless the failure was due to reasonable cause and not willful neglect. To establish reasonable cause, a taxpayer must show that the failure to timely file a 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 GEF Operating, Inc.*, 2020-OTA-057P.) The burden of proof is on the taxpayer to show that reasonable cause exists to support abatement of the late filing penalty. (*Appeal of Xie*, 2018-OTA-076P.) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of GEF Operating, Inc.*, *supra.*)

On appeal, appellant does not contest the imposition or computation of the late filing penalty. Instead, appellant requests abatement of the penalty because it "hired a licensed CPA to file [its] taxes in 2020 and relied upon that tax professional's improper advice as it related to a matter of California franchise tax law." Appellant argues that upon receiving notice from FTB that it had a filing obligation for the 2020 tax year, it made every effort to correct the issue.

² Appellant does not dispute it had a California filing obligation for the 2020 tax year.

A taxpayer may establish reasonable cause based on reliance on a tax professional, if the taxpayer shows that it reasonably relied on the tax professional's substantive tax advice as to whether a tax liability exists and that the following conditions are met: (1) the person relied on by the taxpayer is a tax professional with competency in the subject tax law; and (2) the tax professional's advice is based on the taxpayer's full disclosure of relevant facts and documents. (*Appeal of Summit Hosting LLC*, 2021-OTA-216P.) On appeal, appellant merely states it relied on improper advice from a licensed CPA. Appellant provides no evidence of: (1) what specific advice the CPA provided; (2) whether the CPA was competent in California tax law; or (3) whether the purported advice was based on full disclosure of relevant facts and documents. Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of GEF Operating, Inc.*, *supra*.) As such, appellant has failed to establish reasonable cause to abate the late filing penalty.

Issue 2: Whether appellant has established a basis to abate the per-shareholder penalty.

California imposes a per-shareholder penalty on an S corporation for the failure to file a return on or before the due date, unless it is shown that the late filing is due to reasonable cause. (R&TC, § 19172.5(a).) The amount of the penalty is calculated as \$18 multiplied by the number of persons who were shareholders in the S corporation during any part of the taxable year multiplied by the number of months (or fraction thereof) the return is late, up to 12 months. (R&TC, § 19172.5(b).)

Appellant does not dispute the imposition or computation of the per-shareholder penalty. Rather, appellant requests abatement of the penalty based on the same reasonable cause argument as the one offered above for the late filing penalty. As explained above, appellant has not provided any evidence in support of its reasonable cause argument. Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of GEF Operating, Inc.*, *supra*.) As such, appellant has failed to establish a basis to abate the per-shareholder penalty.

Issue 3: Whether appellant is entitled to a waiver of the estimated tax penalty.

An S corporation subject to the franchise tax must pay estimated tax each year. (R&TC, § 19023.) If the amount of estimated tax does not exceed the minimum franchise tax, the entire amount of the estimated tax is due on or before the fifteenth day of the fourth month of the taxable year. (R&TC, § 19025(a).) An S corporation that underpays its estimated tax is penalized by an addition to tax equal to a specified rate of interest applied to the amount of underpayment unless a statutory exception applies. (R&TC, §§ 19142, 19144, 19147, &

19148.) There is no general reasonable cause exception to the estimated tax penalty. (*Appeal of Weaver Equipment Co.* (80-SBE-048) 1980 WL 4976.)

Appellant does not dispute that it failed to make timely estimated payments or that FTB did not properly compute the estimated tax penalty. None of the statutory exceptions to the imposition of the estimated tax penalty apply to appellant. The only argument appellant provides is the same unsupported reasonable cause argument stated above. As such, appellant is not entitled to a waiver of the estimated tax penalty.

Issue 4: Whether appellant has shown a legal basis to abate interest.

If any amount 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., supra.*) 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 by FTB in the performance of a ministerial or managerial act) or R&TC section 21012 (reasonable reliance on FTB's written advice).

On appeal, appellant only provides the same reasonable cause argument discussed above. Therefore, there is no legal basis to abate interest.

HOLDINGS

1. Appellant has not established reasonable cause to abate the late filing penalty.
2. Appellant has not established a basis to abate the per-shareholder penalty.
3. Appellant is not entitled to a waiver of the estimated tax penalty.
4. Appellant has not shown a legal basis to abate interest.

DISPOSITION


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

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 Hearing Officer

We concur:

DocuSigned by:

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Steven Kim
Administrative Law Judge

Signed by:

 4E8E740EDB984CD...

Kim Wilson
Hearing Officer

Date Issued: 5/29/2025