

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 240917443
H. TALEBZADEH AND	)	
F. NOORI	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellants:	H. Talebzadeh F. Noori
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For Respondent:	Andrea Watkins, Attorney
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T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, H. Talebzadeh and F. Noori (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of a late-filing penalty of \$33,689 plus applicable interest for the 2018 taxable year.¹

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

Have appellants established reasonable cause to abate the late-filing penalty?

FACTUAL FINDINGS

1. Appellants made estimated payments prior to the due date for their tax return, on April 15, 2019.
2. FTB had no record of receiving appellants' 2018 California tax return, and on September 2, 2020, sent appellants a Payment Received – No Return on File letter.
3. On September 28, 2020, appellants filed a joint California Resident Income Tax Return.²
4. FTB imposed a late-filing penalty of \$33,689.

¹ Appellants do not contest the \$3,944 penalty for underpayment of estimated tax.

² Appellants reported tax due of \$134,256, which appellants paid late on September 16, 2019.

5. Appellants paid the penalty plus applicable interest and filed a claim for refund with FTB.
6. FTB denied appellants' claim for refund, and this timely appeal followed.

DISCUSSION

California imposes a penalty for failing to file a return on or before the due date, unless taxpayers show that the failure is due to reasonable cause and not due to willful neglect. (R&TC, § 19131.) When FTB imposes a penalty, it is presumed to have been imposed correctly. (*Appeal of Mauritzson*, 2021-OTA-198P.) Taxpayers may rebut this presumption by providing credible and competent evidence supporting abatement of the penalty for reasonable cause. (*Ibid.*) To establish reasonable cause, taxpayers must show that the failure to file a timely return occurred despite the exercise of ordinary business care and prudence, or that such cause existed as would prompt an ordinarily prudent businessperson to have acted under similar circumstances. (*Ibid.*)

Here, FTB has no record of receiving appellants' tax return by the extended due date of October 15, 2019. Thus, FTB properly imposed the late-filing penalty. Appellants request abatement of the penalty based on reasonable cause. Appellants assert that they electronically filed (e-filed) a timely federal tax return and attempted to e-file their state return. Appellants provide evidence showing that their California return could not be e-filed due to a limitation on the number of schedules appellants could attach to an e-filed return. Appellants contend they were provided with a paper copy of the prepared tax return, which they dropped in a mail slot at a post office on September 17, 2019. Appellants assert that their timely filing of their federal return, their electronic payment of both their federal and California taxes, and receipt of a printed return from the CPA, support their contention that they timely mailed their California return.

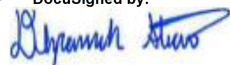
Appellants were able to establish that they timely filed their federal return, paid their taxes, and printed a copy of their state return. However, nothing in OTA's record shows that FTB received appellants' 2018 return prior to September 28, 2020. To refute FTB's records, appellants must provide evidence, such as a registered or certified mail receipt, showing that a return was filed on a date different from the date indicated by FTB's records. (*Appeal of Sotelo*, 2025-OTA-03P.) Appellants did not provide any evidence that a return was mailed at an earlier date and, as such, are unable to meet their burden of proof.

HOLDING

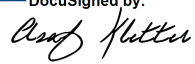
Appellants have not established reasonable cause to abate the late-filing penalty.

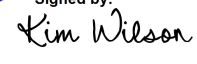
DISPOSITION

OTA sustains FTB's action denying appellants' claim for refund.

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43F5B0A21D8D46B... For
Teresa A. Stanley
Administrative Law Judge

We concur:

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D17AEDDCAA8043B...
Asaf Kletter
Administrative Law Judge

Signed by:

4E9E740EDB984CD...
Kim Wilson
Hearing Officer

Date Issued: 7/30/2025