OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **HEREDIA CABLING SOLUTIONS, INC.**	OTA Case No. 230613468

OPINION

Representing the Parties:

For Appellant: Madison Migneault, EA

For Respondent: Ariana Macedo, Attorney

For Office of Tax Appeals: Neha Garner, Attorney

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Heredia Cabling Solutions, Inc. (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of $1,262.47, plus interest for the 2021 taxable 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, (Regulation) section 30209(a).

ISSUES

1. Has appellant established reasonable cause to abate the late-payment penalty?
2. Has appellant established a basis to abate the underpayment of estimated tax penalty (estimated tax penalty)?
3. Has appellant established a basis to abate or waive interest?

FACTUAL FINDINGS

1. Appellant filed a timely 2021 California S Corporation Franchise or Income Tax Return (Form 100S) on September 15, 2022, within the automatic extension period. Appellant

reported total tax of $10,146, less an $800 payment, for tax due of $9,346, and self-reported penalties and interest of $198, resulting in a total amount due of $9,544.

2. On October 14, 2022, FTB sent appellant a Notice of Balance Due, indicating that FTB had imposed a late-payment penalty of $862.41,[1] an estimated tax penalty of $197.14, and interest.
3. On January 17, 2023, appellant made a partial payment in the amount of $9,544. On January 19, 2023, appellant made an additional payment in the amount of $2,081.81, satisfying the balance owed.
4. Appellant thereafter submitted a claim for refund of the penalties and interest.
5. FTB denied appellant's claim for refund, and appellant filed this timely appeal.

DISCUSSION

Issue 1: Has appellant established reasonable cause to abate the late-payment penalty?

A late-payment penalty is imposed when a taxpayer fails to pay the amount shown as due on the return on or before the date prescribed for payment of the tax. (R&TC, § 19132(a)(1)(A).) Generally, the date prescribed for payment of the tax is the due date of the return (without regard to any extension of time for filing the return). (R&TC, § 19001.) For the 2021 taxable year, an S corporation was required to file its return on or before the 15th day of the third month following the close of its taxable year, or March 15, 2022. (R&TC, § 18601(d)(1).) When FTB imposes a penalty, the law presumes that the penalty was imposed correctly. (*Appeal of Xie*, 2018-OTA-076P.) Here, appellant did not fully pay its 2021 tax liability until January 17, 2023, and FTB properly imposed the late-payment penalty.

However, a late-payment penalty will be abated if a taxpayer shows that the late payment was due to reasonable cause and not due to willful neglect. (R&TC, § 19132(a)(1).) Generally, to establish reasonable cause, a taxpayer must show that the failure to timely pay occurred despite the exercise of ordinary business care and prudence. (*Appeal of Moren*, 2019-OTA-176P.) The taxpayer bears the burden of proving that an ordinarily intelligent and prudent businessperson would have acted similarly under the circumstances. (*Ibid*.) Unsupported assertions are insufficient to satisfy the burden of proof. (*Ibid*.)

On appeal, appellant requests a first-time abatement of the penalties because Mr. Heredia, appellant's CEO, believed he had paid appellant's taxes when he paid his individual taxes on October 22, 2022. Appellant also contends that reasonable cause exists

[1] The late-payment penalty increased to $1,065.33 because appellant did not pay in full until January 19, 2023.

because Mr. Heredia's wife passed away in January 2021, and she had handled the business's financial operations and tax accounts since appellant's inception. Appellant alleges that after the passing of Mr. Heredia's wife, Mr. Heredia assumed appellant's financial responsibilities and misunderstood the payment due date for appellant.

With respect to appellant's request for a first-time abatement of penalties, California law provides that for taxable years beginning on or after January 1, 2022, FTB may abate timeliness penalties for individual taxpayers who are subject to the personal income tax. (R&TC, § 19132.5(a)(1), (f).) The taxable year at issue is prior to January 1, 2022, and more importantly, appellant is not an individual, so first-time abatement is not available in this case.

Regarding appellant's additional assertions, illness and other circumstances may establish reasonable cause where the taxpayer presents credible and competent proof that the circumstances prevented the taxpayer from complying with the law. (*Appeal of Triple Crown Baseball LLC*, 2019-OTA-025P.) However, if the difficulties simply cause the taxpayer to sacrifice the timeliness of one aspect of the taxpayer's affairs to pursue other aspects, the taxpayer must bear the consequences of that choice. (*Ibid*.) Here, appellant has not provided any evidence establishing that the passing of Mr. Heredia's wife prevented appellant from paying its tax liability by the due date. It appears that appellant earned substantial income during the 2021 taxable year and met its obligation to file a tax return on time. Appellant's only failure was to pay on time. Mr. Heredia, being unaccustomed to managing appellant's financial operations, may have misunderstood the payment due date. However, ignorance of the law does not excuse appellant's obligation to pay its taxes on time. (*Appeal of Shanahan*, 2024-OTA-039P.) While OTA is sympathetic to Mr. Heredia's loss, appellant fails to establish reasonable cause to abate the late-payment penalty.

Issue 2: Has appellant established a basis to abate the estimated tax penalty?

Corporations that are required to pay California franchise tax pursuant to the Corporation Tax Law must make estimated tax payments. (R&TC, §§ 19023,19025(a).) When the amount of estimated tax exceeds the minimum franchise tax, the amount is generally paid in specified installments. (R&TC, § 19025(b).) A corporation that underpays its estimated tax is liable for a penalty equal to a specified rate of interest applied to the amount of the underpayment. (R&TC, §§ 19142(a), 19144.)[2] An estimated tax penalty is properly imposed where the taxpayer's installment payments are less than the amounts due at the end of the installment periods.

[2] There are a few limited statutory exceptions to the estimated tax penalty that are not applicable here. (See R&TC, §§ 19147, 19148.)

(*Appeal of Bechtel, Inc.* (78-SBE-052) 1978 WL 3525.) There is no extenuating circumstance, reasonable cause, or lack of willful neglect exception for the estimated tax penalty. (*Appeal of Weaver Equipment Co.* (80-SBE-048) 1980 WL 4976.)

Appellant did not make timely estimated payments for the 2021 taxable year. Accordingly, the estimated tax penalty was properly imposed. Appellant makes the same contentions for abatement of the estimated tax penalty as it does for the late-payment penalty. The estimated tax penalty cannot be abated under the first-time abatement statute, for the reasons discussed above,[3] nor may the penalty be abated for reasonable cause. Moreover, first-time abatement applies only to late-filing and late-payment penalties. (R&TC, § 19132.5(c).) Consequently, appellant has not established a basis to abate the estimated tax penalty.

Issue 3: Has appellant established a basis to abate or waive interest?

If any amount of the tax 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 which should have been paid to the state. (*Appeal of Balch*, 2018-OTA-159P.) Imposition of interest is mandatory, and it can only be abated in certain limited situations when authorized by law. (R&TC, § 19101(a); *Appeal of Balch*, *supra*.) There is no reasonable cause exception to the imposition of interest. (*Appeal of Moy*, 2019-OTA-057P.) To obtain relief from interest, appellants must qualify under R&TC section 19104, 19112, or 21012; however, based on the evidence and appellant's arguments, none of these statutory provisions apply. Thus, appellant has not established any basis for interest abatement for the taxable year at issue.

[3] The first-time abatement statute only applies to taxable years beginning on or after January 1, 2022, and only permits abatement of timeliness penalties for individual taxpayers subject to the personal income tax. (R&TC, § 19132.5(a)(1), (f).)

HOLDINGS

1. Appellant has not established reasonable cause to abate the late-payment penalty.
2. Appellant has not established a basis to abate the estimated tax penalty.
3. Appellant has not established a basis to abate or waive interest.

DISPOSITION

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

DocuSigned by:
43F5DCA21D8D46B... For
Teresa A. Stanley
Administrative Law Judge

We concur:

DocuSigned by:
Susana Seyller
6FE2EBECC6F6481... For
Erica Parker
Hearing Officer

Signed by:
Seth Elsom
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Seth Elsom
Hearing Officer

Date Issued: 7/30/2025