

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 231014446
IM GLOBAL PARTNER US, LLC	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellant: Blake Boshnack, CPA

For Respondent: Alisa L. Pinarbasi, Attorney

M. GEARY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, IM Global Partner US, LLC (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$20,082.50 for the 2020 tax year.

Appellant waived the right to an oral hearing and submitted the matter to the Office of Tax Appeals (OTA) on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Is appellant entitled to relief from the late-filing penalty?

FACTUAL FINDINGS

1. Appellant is an LLC treated as a C Corporation and part of a five-member combined reporting group that filed its 2020 California Corporation Franchise or Income Tax Return – Water's Edge Filers (the return) late on November 23, 2021.¹
2. Because the return was filed late, respondent imposed a late-filing penalty, and on April 27, 2023, respondent issued a Return Information Notice (Notice), which informed appellant regarding changes that respondent made to appellant's return. As relevant

¹ A copy of appellant's group return election listing the California taxpayers included in the return is not in the record.

here, those changes included the imposition of the late-filing penalty.² The Notice stated that appellant's balance due was \$24,915.72, which appellant paid in full on June 1, 2023.

3. On July 11, 2023, appellant filed a Reasonable Cause – Business Entity Claim for Refund.
4. By letter dated August 21, 2023, respondent denied the claim.
5. This timely appeal followed.

DISCUSSION

For the tax year at issue, a corporation was required to file its return on or before the 15th day of the fourth month following close of its taxable year. (R&TC, § 18601(a).) Respondent is authorized to grant reasonable extensions for the filing of a corporation's return. (R&TC, § 18604(a).) Pursuant to FTB Notice 2019-07, appellant's extended filing date was November 15, 2021.

R&TC Section 19131 provides that a late-filing penalty shall be imposed when a taxpayer fails to file a tax return on or before its due date, unless the taxpayer establishes that the late filing was due to reasonable cause and not due to its willful neglect. (R&TC § 19131(a).) The penalty is five percent of the amount of tax required to be shown on the return for every month that the return is late, up to a maximum of 25 percent. (*Ibid.*) Respondent's imposition of a penalty is presumed to be correct, and the taxpayer has the burden of proving error. (*Appeal of Xie*, 2018-OTA-076P.)

To establish reasonable cause, the taxpayer must show that the failure to file timely returns occurred notwithstanding the taxpayer's exercise of ordinary business care and prudence, or that such cause existed as would prompt an ordinarily intelligent and prudent businessman to have acted under similar circumstances. (*Appeal of GEF Operating, Inc.*, 2020-OTA-057P.) Taxpayers have an obligation to use the best available information to prepare and file timely returns. (*Appeal of Xie, supra.*) If more accurate information becomes available after the return is filed, the taxpayer can file an amended return, if needed. (*Ibid.*) Ignorance of the law alone is never an excuse for failing to file a timely return. (*Appeal of GEF Operating, Inc., supra.*)

Appellant argues that it did not file the return by the extended due date because, notwithstanding its exercise of ordinary business care and prudence, it was unable to gather all

² The Return Information Notice also explained other changes, including an estimated tax penalty and interest, none of which are at issue in this appeal.

the information it needed to prepare the return by that date. Appellant provided copies of emails, dated between March 9, 2021, and August 31, 2021, that appear to document inquiries by appellant regarding the availability of Schedules K-1 from five entities in which appellant held an interest.

In this context, the first question is whether the evidence shows that appellant could not have used the best available information to prepare and file a timely return. If it could not, the next question is whether the evidence shows that appellant was unable to prepare and file a timely return notwithstanding its exercise of ordinary business care and prudence.

The emails provided by appellant contain insufficient information to support appellant's argument that it could not have prepared and filed a timely return. The emails indicate that one entity to which appellant had sent an inquiry provided an estimated K-1 by April 12, 2021, and that the Schedules K-1 for the remaining four entities to which appellant sent inquiries were in appellant's hands by the end of August 2021, two and one-half months before the extended filing due date. The emails do not provide an explanation for why appellant filed the return eight days late, on November 23, 2021.

Moreover, appellant has not demonstrated that it was missing any required information after August 31, 2021, by which time it had received the Schedules K-1. OTA therefore finds that appellant has not carried its burden of proving that it could not have prepared and filed a timely return; and, therefore, appellant is not entitled to relief from the penalty.

Although the above finding is dispositive, OTA notes that appellant states in its request for appeal filed with OTA that for all years since the tax year at issue, appellant has made estimated tax payments in a timely manner and argues that this conduct establishes reasonable cause. Even if this were true, subsequent timely payments are not relevant to the late filing penalty under consideration here.³

³ If appellant is requesting one-time penalty abatement under R&TC section 19132.5, that relief is not available for 2020 tax year and only applies to individuals. (R&TC, § 19132.5(f).)

HOLDING

Appellant is not entitled to relief from the late-filing penalty.

DISPOSITION

Respondent's action denying appellant's claim for refund is sustained.

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Michael F. Geary
Administrative Law Judge

We concur:

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Asaf Kletter
Administrative Law Judge

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Josh Lambert
Administrative Law Judge

Date Issued: 8/22/2025