

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: )  
**JENNIFER E. STACKPOLE** )  
**FAMILY TRUST U/A DATED 5/10/02** )  
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OTA Case No. 241218189

**OPINION**

Representing the Parties:

For Appellant: Syeda M. Khan, CPA  
Eric Pfiel, Representative

For Respondent: Leoangelo C. Cristobal, Attorney  
Maria Brosterhous, Attorney Supervisor

K. WILSON, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Jennifer E. Stackpole Family Trust U/A Dated 5/10/02 (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$3,319.10 for the 2023 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05(b).)

Office of Tax Appeals (OTA) Hearing Officer Kim Wilson held a virtual oral hearing for this matter on July 23, 2025. At the conclusion of the oral hearing, the record was closed, and this matter was submitted on the oral hearing record pursuant to California Code of Regulations, title 18, section 30209(b).

**ISSUE**

Whether appellant has established reasonable cause to abate the late payment penalty.

**FACTUAL FINDINGS**

1. Appellant timely filed its 2023 California Fiduciary Income Tax Return reporting total tax of \$61,063, estimated tax payments of \$10,000, and tax due of \$51,063.
2. On April 15, 2023, appellant attempted to pay \$51,063 via electronic funds withdrawal but the payment was dishonored for invalid bank account information.

3. On July 1, 2024, FTB sent a State Income Tax Balance Due Notice to appellant for tax due of \$51,063, a late payment penalty of \$3,319.10, and interest of \$796.84, totaling \$55,178.94.
4. On July 15, 2024, FTB received a payment of \$55,178.94 and a claim for refund requesting abatement of the late payment penalty and interest paid.
5. On October 9, 2024, appellant paid \$166.76 which satisfied appellant's balance for tax year 2023.
6. On November 8, 2024, FTB denied appellant's claim for refund.
7. This timely appeal followed.

### DISCUSSION

California imposes a penalty when a taxpayer fails to pay the amount of tax shown on a return on or before the due date, unless it is due to reasonable cause and not willful neglect. (R&TC, § 19132(a)(1).) When FTB imposes a penalty, the law presumes that the penalty was imposed correctly. (*Appeal of Xie*, 2018-OTA-076P.) To establish reasonable cause for the late payment penalty, the taxpayer must show that the failure to make a timely payment of the proper amount of tax occurred despite the exercise of ordinary business care and prudence. (*Appeal of Triple Crown Baseball LLC*, 2019-OTA-025P.) The standard is whether an ordinarily intelligent and prudent businessperson would have acted similarly under the same circumstances. (*Ibid.*)

Here, appellant does not dispute the computation or imposition of the late payment penalty. Appellant contends that the bank account information was correct, and that the IRS was able to receive payment using the same information. Additionally, appellant stated at the hearing that FTB was able to use the same bank account information to withdraw funds for a 2024 estimated payment made on June 17, 2024.

While appellant contends that the IRS was able to receive payment using the same bank account information and FTB was able to use the same bank account information to withdraw funds in June 2024, appellant has not provided any evidence to support this contention, such as the specific account information entered into the tax preparation software and evidence establishing that this information was correct and valid. Appellant's contentions do not establish reasonable cause for abating the penalty because they fail to address what steps, if any, appellant took to ensure that the payment would be successfully processed. Reasonable cause to abate a late payment penalty is generally not established when a taxpayer enters incorrect bank account information. (See *Appeal of Scanlon*, 2018-OTA-075P.) Regardless of whether

the error was unintentional, an oversight that results in failure to timely pay a tax liability does not, by itself, constitute reasonable cause. (*Appeal of Friedman*, 2018-OTA-077P.)

“[R]easonably prudent taxpayers exercising due care and diligence [are expected] to monitor their bank account and quickly ascertain whether a scheduled electronic payment from their account to FTB was in fact paid.” (*Appeal of Scanlon, supra.*) Further, any “lack of notice from the FTB of a failed payment does not negate [appellant’s] duty of prudence and due care to verify that their scheduled payments were successful.” (*Ibid.*) Appellant failed to monitor whether the payment was successfully completed and thus did not exercise the ordinary business care and prudence necessary.

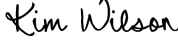
Finally, while the remedial actions taken by appellant are commendable, the statute does not provide for abating the penalty based solely on the exercise of ordinary business care and prudence *after* a payment has been dishonored.

#### HOLDING

Appellant has not established reasonable cause to abate the late payment penalty.

#### DISPOSITION

FTB’s action denying appellant’s claim for refund is sustained.

Signed by:  
  
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Kim Wilson  
Hearing Officer

Date Issued: 8/27/2025