

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
AMALFI COAST INSURANCE SERVICES, INC.,) OTA Case No. 231014520
dba Rogers Insurance Services, Inc.)
 _____)

OPINION

Representing the Parties:

For Appellant:	Orlando Frasca, President
For Respondent:	Paige Chang, Attorney Maria Brosterhous, Attorney Supervisor

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Amalfi Coast Insurance Services, Inc. (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant’s claims for refund of \$632.56,¹ \$73.96, and \$69.96, plus interest, for fiscal tax year ending (FYE) October 31, 2013, October 31, 2014, and October 31, 2015, respectively.

Office of Tax Appeals (OTA) Panel Members Erica Parker, Sara A. Hosey, and Veronica I. Long held a virtual oral hearing for this matter on August 20, 2025. At the conclusion of the hearing, the record was closed, and this matter was submitted for an opinion pursuant to California Code of Regulations, title 18, section 30209(b).

ISSUES

1. Whether appellant has established the accuracy-related penalty based on a federal determination should be abated for FYE October 31, 2013.
2. Whether appellant has established reasonable cause to abate the late payment penalties for FYE October 31, 2013, October 31, 2014, and October 31, 2015.

¹ FTB issued claim for refund denials totaling \$622.56 (consisting of an accuracy related penalty of \$538.60, a late payment penalty of \$62, and an underpayment of the estimated tax penalty of \$21.96). However, on appeal, FTB states the amount on appeal for FYE October 31, 2013, is \$632.56 (consisting of an accuracy related penalty of \$538.60, a late payment penalty of \$72, and an underpayment of the estimated tax penalty of \$21.96).

3. Whether appellant has established a legal basis to abate the underpayment of estimated tax penalties (estimated tax penalty) for FYE October 31, 2013, October 31, 2014, and October 31, 2015.
4. Whether appellant has established a basis to abate interest for FYE October 31, 2013, October 31, 2014, and October 31, 2015.

FACTUAL FINDINGS

FYE October 31, 2013

1. Appellant timely filed a California Corporation Franchise or Income Tax Return (Form 100) for FYE October 31, 2013, reporting total tax of \$800 and estimated tax payments of \$800, resulting in zero balance due.
2. FTB informed appellant that the \$800 estimated tax payment was not received and imposed a late payment penalty and an estimated tax penalty.
3. On September 11, 2014, appellant paid the balance due.

FYE October 31, 2014

4. Appellant timely filed a Form 100 for FYE October 31, 2014, reporting total tax of \$800 and estimated tax payments of \$800, resulting in zero balance due. However, FTB did not receive appellant's reported estimated tax payments.
5. On April 9, 2015, appellant remitted a payment of \$873.52² for FYE October 31, 2014.

FYE October 31, 2015

6. Appellant timely filed a Form 100 for FYE October 31, 2015, reporting total tax of \$800 and estimated tax payments of \$800, resulting in zero balance due. However, FTB did not receive appellant's reported estimated tax payments.
7. On February 18, 2016, appellant remitted a payment of \$872.30³ for FYE October 31, 2015.

Federal Determination

8. On December 7, 2021, FTB issued to appellant Notices of Proposed Assessment (NPAs) for FYE October 31, 2013, October 31, 2014, and October 31, 2015, informing

² This amount is comprised of appellant's tax due of \$800, a late payment penalty of \$52, and an estimated tax penalty of \$21.96, with a difference of \$.44.

³ This amount is comprised appellant's tax due of \$800, a late payment penalty of \$48, and an estimated tax penalty of \$21.96, with a difference of \$2.34.

- appellant that FTB received information that a federal adjustment was made to appellant's federal taxable income and proposing to assess additional tax based on the increased taxable income.
9. The NPA for FYE October 31, 2013, also informed appellant that since the IRS imposed the accuracy-related penalty for FYE October 31, 2013, FTB also proposed to assess the penalty.
 10. Appellant timely protested the NPAs.
 11. On April 10, 2023, FTB issued Notices of Action that affirmed the NPAs, explaining that appellant had not provided documentation to support its position that the IRS adjustments were incorrect.
 12. On July 15, 2023, appellant timely filed claims for refund of the penalties and interest for the tax years on appeal based on reasonable cause.
 13. On August 11, 2023, FTB denied the claims for refund.
 14. This timely appeal followed.

DISCUSSION

Issue 1: Whether appellant has established the accuracy-related penalty based on a federal determination should be abated for FYE October 31, 2013.

Internal Revenue Code (IRC) section 6662, incorporated by R&TC section 19164, provides for an accuracy-related penalty of 20 percent of the applicable underpayment. As relevant here, the accuracy-related penalty applies to the portion of the underpayment attributable to negligence or disregard of rules and regulations (negligence).⁴ (IRC, § 6662(b)(1).) In its brief, FTB asserts that the accuracy-related penalty was imposed due to negligence and appellant does not dispute the basis of the imposition of the accuracy-related penalty. When FTB's proposed assessment is based on a federal determination that imposed the accuracy-related penalty based on negligence, FTB's imposition of the penalty based on negligence is presumed correct. (*Appeal of Dillahunty*, 2024-OTA-024P.) The accuracy-related penalty may be reduced or abated to the extent a taxpayer shows that: (1) there is a reasonable basis for the taxpayer's reporting position; (2) the position was adequately disclosed in the tax return (or a statement attached to the return) and there is a reasonable basis for the

⁴ "Negligence" is defined to include "any failure to make a reasonable attempt to comply" with the provisions of the code. (IRC, § 6662(c).) "Disregard" is defined to include "careless, reckless, or intentional disregard." (*Ibid.*)

item; or (3) the taxpayer acted in good faith and had reasonable cause for the understatement. (*Ibid.*)

Here, FTB provides a copy of appellant's IRS Account Transcript dated February 15, 2024, and IRS Business Master File as evidence that the IRS assessed appellant an accuracy-related penalty for FYE October 31, 2013, based on negligence. Thus, it is presumed that FTB properly imposed the accuracy-related penalty.

On appeal, appellant argues that it settled with the IRS and that the accuracy-related penalty was not assessed. Appellant is unable to explain why its IRS Account Transcript dated February 15, 2024, reflects the imposition of the accuracy-related penalty.⁵ Appellant provides no additional argument or defense to the accuracy-related penalty.

Appellant has not provided any documentation or legal authority to establish any of the potential defenses, nor has it otherwise satisfied its burden of proving error in FTB's imposition of the accuracy-related penalty. Accordingly, appellant has not established the accuracy-related penalty should be abated.

Issue 2: Whether appellant has established reasonable cause to abate the late payment penalties for FYE October 31, 2013, October 31, 2014, and October 31, 2015.

R&TC section 19132 imposes a late payment penalty when a taxpayer fails to pay the amount shown as due on a return by the date prescribed for the payment of the tax. Generally, the date prescribed for the payment of tax is the original due date of the return. (R&TC, § 19001.) For the tax years at issue, appellant's original due date to file a tax return was on or before January 15th following the close of its taxable year. (R&TC, § 18601(a) [effective January 1, 2001, to December 31, 2016].)⁶ For the years on appeal, appellant paid its tax due on September 11, 2014 (for FYE October 31, 2013), April 9, 2015 (for FYE October 31, 2014), and February 18, 2016 (for FYE October 31, 2015). Therefore, the late payment penalties were properly imposed.

The late payment may be abated if the taxpayer shows that the failure to make a timely payment of tax was due to reasonable cause and not due to willful neglect. (R&TC, § 19132(a)(1).) To establish reasonable cause for a late payment of tax, the taxpayer must show that the failure to make a timely payment occurred despite the exercise of ordinary

⁵ During the oral hearing, appellant was provided an opportunity to specifically address why the IRS Account Transcript reflects the imposition of the accuracy-related penalty, despite its argument that the IRS did not assess the penalty.

⁶ Appellant filed its Form 100 on a fiscal year basis ending October 31st; therefore, the 15th day of the third month following the close of its taxable year is January 15th. (R&TC, § 18601(a).)

business care and prudence. (*Appeal of Rougeau*, 2021-OTA-335P.) 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 taxpayer's burden of proof. (*Appeal of Moren*, 2019-OTA-176P.)

On appeal, appellant does not provide any argument addressing its failure to timely pay its tax liabilities for the years on appeal. Appellant's only argument is that the IRS adjustments did not result in the imposition of penalties. However, the imposition of the late payment penalties is the result of appellant's untimely payments of its tax due and is unrelated to the adjustments made by the IRS. Therefore, OTA finds appellant has not established a basis to abate the late payment penalties.

Issue 3: Whether appellant has established a legal basis to abate the estimated tax penalties for FYE October 31, 2013, October 31, 2014, and October 31, 2015.

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).) If the amount of the estimated tax does not exceed the minimum tax, the entire amount of the estimated tax is due and payable on or before the 15th day of the fourth month of the taxable year. (R&TC, § 19025(a).) 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 unless a statutory exception applies. (R&TC, §§ 19142(a), 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 payments of its estimated tax for the years on appeal. Appellant's only argument is that the IRS adjustments did not result in the imposition of penalties. However, the imposition of the estimated tax penalties is the result of appellant's failure to make timely payments of its estimated tax and is unrelated to the adjustments made by the IRS. Therefore, OTA finds appellant has not established a legal basis to abate the estimated tax penalties.

Issue 4: Whether appellant has established a basis to abate interest for FYE October 31, 2013, October 31, 2014, and October 31, 2015.

If any amount of tax is not paid by the due date, interest is required to be imposed from the due date until 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 Moy*, 2019-OTA-057P.) 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*, 2018-OTA-159P.) To obtain relief from interest, appellant 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 21012 (reasonable reliance on FTB’s written advice).

Appellant does not allege any statutory provision for interest abatement applies to the facts of this case, and OTA concludes based on the evidence in the record that no statutory provision for abatement of interest applies. Therefore, appellant has not established a basis to abate interest.

HOLDINGS

1. Appellant has not established the accuracy-related penalty based on a federal determination should be abated for FYE October 31, 2013.
2. Appellant has not established reasonable cause to abate the late payment penalties for FYE October 31, 2013, October 31, 2014, and October 31, 2015.
3. Appellant has not established a legal basis to abate the estimated tax penalties for FYE October 31, 2013, October 31, 2014, and October 31, 2015.
4. Appellant has not established a basis to abate interest for FYE October 31, 2013, October 31, 2014, and October 31, 2015.

DISPOSITION

FTB’s actions denying appellant’s claims for refund are sustained.

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Erica Parker
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Erica Parker
Hearing Officer

We concur:
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Sara A. Hosey
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Sara A. Hosey
Administrative Law Judge

Signed by:
Veronica I. Long
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Veronica I. Long
Administrative Law Judge

Date Issued: 10/7/2025