

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 240716855
BYFM ENTERTAINMENT, INC.)	
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OPINION

Representing the Parties:

For Appellant:	Farhad Yamoutpour, Representative
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For Respondent:	Arathi Ramalingam, Attorney
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S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, BYFM Entertainment, Inc. (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$943.84 for the 2022 tax 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, section 30209(a).

ISSUES

1. Whether appellant has established reasonable cause to abate the late payment penalty.
2. Whether appellant has established a basis to abate the estimated tax penalty.
3. Whether appellant has established a basis to abate interest.

FACTUAL FINDINGS

1. Appellant filed its 2022 California S Corporation Franchise or Income Tax Return on March 10, 2023, reporting tax due. Appellant did not provide payment with the tax return.
2. FTB imposed a late payment penalty of \$547.23, an estimated tax penalty of \$151.20, and interest.
3. Appellant made a payment of \$7,327.79 on May 19, 2024, and a final payment of \$54.05 on June 4, 2024, that satisfied the 2022 tax liability.

4. Appellant filed a claim for refund, requesting the penalties and interest be abated for the 2022 tax year.
5. FTB denied appellant's claim for refund.
6. Appellant filed this timely appeal.

DISCUSSION

Issue 1: Whether appellant has established reasonable cause to abate the late payment penalty.

R&TC section 19132 imposes a late payment penalty when a taxpayer fails to pay the amount shown as tax on the return by the date prescribed for the payment of the tax. Generally, the date prescribed for the payment of the tax is the due date of the return (without regard to extensions of time for filing). (R&TC, § 19001.) The late payment penalty may be abated if the taxpayer shows that the failure to make a timely payment of tax was due to reasonable cause and was not due to willful neglect. (R&TC, § 19132(a)(1).) To establish reasonable cause for a late payment of tax, a taxpayer must show that the failure to make a timely payment occurred despite the exercise of ordinary 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.*) As to the taxpayer's burden, the applicable standard of proof is by a preponderance of the evidence. (Cal. Code Regs., tit. 18, § 30219(b).)

Appellant does not argue that the payment was not late or that the penalty was not calculated properly; rather, appellant contends that it was not aware that tax was due. Appellant states that once it was made aware that tax was due, it acted promptly. Unfortunately, ignorance of the law is not reasonable cause. (*Appeal of Cremel and Koepfel*, 2021-OTA-222P.) Additionally, to determine whether the reasonable cause standard has been met in an appeal before OTA, established case law requires the application of an objective examination that analyzes the steps that an ordinarily intelligent and prudent business person would have taken. (*Appeal of Rougeau, supra.*) It takes no special skill set or talent to know that there are unambiguous due dates for filing returns and paying taxes. (*Appeal of Mazdyasni*, 2018-OTA-049P.) An ordinarily intelligent and prudent businessperson would verify when and where to remit tax by checking available resources. (*Appeal of Porreca*, 2018-OTA-095P.) A taxpayer who fails to acquaint themselves with the requirements of California tax law does not exercise ordinary care and prudence. (*Ibid.*) Appellant has failed to meet the burden to establish reasonable cause to abate the late payment penalty.

Issue 2: Whether appellant has 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, then 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.) 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. (*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.) There are a few limited statutory exceptions to the estimated tax penalty. (See R&TC, §§ 19147, 19148.)

Appellant does not specifically address the estimated tax penalty or raise any basis for abatement of the estimated tax penalty other than reasonable cause, which is not applicable for this penalty. Therefore, the appellant has not met its burden to abate the estimated tax penalty.

Issue 3: Whether appellant has established a basis to abate interest.

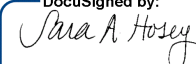
If any amount of tax is not paid by the due date, interest is required to be imposed from the due date until the date the taxes are paid. (R&TC, § 19101(a).) Interest is not a penalty but is compensation for the taxpayer's use of money that should have been paid to the state. (*Appeal of Balch*, 2018-OTA-159P.) 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.) Rather, to obtain relief from interest, appellant must qualify under R&TC section 19104 (pertaining to unreasonable error or delay by FTB in the performance of a ministerial or managerial act) or R&TC section 21012 (pertaining to reasonable reliance on the written advice of FTB). Appellant does not assert, and the evidence does not show that FTB committed any such error or delay. R&TC section 21012 is also not relevant here because FTB did not provide appellant with any written advice. Appellant is therefore not entitled to interest abatement.

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 interest.

DISPOSITION

FTB's action is sustained.

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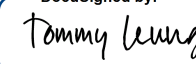
Sara A. Hosey
Administrative Law Judge

We concur:

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Seth Elsom
Hearing Officer

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Tommy Leung
Administrative Law Judge

Date Issued: 9/18/2025