

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

In the Matter of the Appeal of: )  
**IPENZING LLC** ) OTA Case No. 241017753  
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**OPINION**

Representing the Parties:

For Appellant: Daniel Warmuth, Representative

For Respondent: Amelia Breen, Attorney

H. FAMULARO, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Ipenzing LLC (appellant) appeals actions by the Franchise Tax Board (respondent) denying appellant’s claims for refund of \$437.96 and \$315.21, and applicable interest, for the 2021 and 2022 tax years, respectively.

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-filing penalties.
2. Whether appellant has established reasonable cause to abate the per-shareholder late-filing penalties.
3. Whether appellant has established a legal basis to abate the underpayment of estimated tax (estimated tax) penalties.
4. Whether appellant has established a legal basis to abate interest.

### FACTUAL FINDINGS

1. Appellant, a single-member limited liability company (LLC), was taxed as an S corporation for income tax purposes during the 2021 and 2022 tax years.
2. On April 10, 2024, appellant untimely filed its Forms 100S, California S Corporation Franchise or Income Tax Returns, for the 2021 and 2022 tax years, after respondent notified appellant of its filing requirements for those years.
3. On its 2021 tax return, appellant reported a minimum franchise tax of \$800 and \$22 in interest due, which appellant paid on April 15, 2024.
4. On its 2022 tax return, appellant reported a minimum franchise tax of \$800 and \$25 in interest due, which appellant paid on April 15, 2024.
5. By notice dated May 21, 2024, respondent advised appellant that it had assessed an R&TC section 19131 late-filing penalty of \$200, an R&TC section 19172.5 per-shareholder late-filing penalty of \$216, and an R&TC section 19142 estimated tax penalty of \$21.96, plus applicable interest, for the 2021 tax year.
6. By notice dated May 22, 2024, respondent advised appellant that it had assessed an R&TC section 19131 late-filing penalty of \$200, an R&TC section 19172.5 per-shareholder late-filing penalty of \$90, and an R&TC section 19142 estimated tax penalty of \$25.21, plus applicable interest, for the 2022 tax year.
7. On May 21, 2024, and May 22, 2024, appellant paid the assessed penalties for the 2021 and 2022 tax years.
8. On June 10, 2024, appellant sent respondent claims for refund for the 2021 and 2022 tax years.
9. On September 9, 2024, respondent sent appellant denial letters of appellant's claims for refund for the 2021 and 2022 tax years.
10. This timely appeal followed.

### DISCUSSION

Appellant argues that the penalties and interest at issue for both the 2021 and 2022 tax years should be abated for reasonable cause because appellant was not aware of its California tax filing requirements for these tax years. Appellant states it had a "small amount of inventory stored with a third-party logistics (3PL) provider in California from 2020 until 2022," and that it filed its California tax returns promptly after respondent informed appellant that it was required to file California tax returns for 2020 through 2022. Appellant contends, in the alternative, that it

is entitled to one-time abatement of the penalties and interest at issue because it “had no previous record of failing to comply with California’s tax regulations.”

Issue 1: Whether appellant has established reasonable cause to abate the late-filing penalties.

R&TC section 19131 imposes a penalty when a taxpayer fails to file a return on or before its due date unless the taxpayer establishes that the late filing was due to reasonable cause and not willful neglect. Here, appellant does not dispute that the late-filing penalties for the 2021 and 2022 tax years were properly imposed or computed. Rather, appellant asserts it has established reasonable cause to abate the penalties.

To establish reasonable cause, a taxpayer “must show that the failure to file timely returns occurred despite the exercise of ordinary business care and prudence, or that such cause existed as would prompt an ordinar[ily] intelligent and prudent business[person] to have so acted under similar circumstances.” (*Appeal of GEF Operating, Inc.*, 2020-OTA-057P.) Even if the taxpayer is unaware of a filing requirement, ignorance of the law is not an excuse for failing to file a timely return. (*Ibid.*) Taxpayers who fail to acquaint themselves with the requirements of California tax law have not exercised ordinary business care and prudence. (*Ibid.*) Each taxpayer has a non-delegable obligation to file a tax return by the due date. (See *U.S. v. Boyle* (1985) 469 U.S. 241.)

Appellant argues there is reasonable cause to abate the late-filing penalties for the 2021 and 2022 tax years because it was unaware of its filing requirements. Appellant filed its California tax returns for 2021 and 2022 after respondent informed appellant it was required to file returns for those years. Appellant’s ignorance of the law is not an excuse for its failure to file timely returns. (See *Appeal of GEF Operating, Inc.*, *supra.*) Appellant offers no evidence that its failure to file timely California tax returns for 2021 and 2021 occurred despite the exercise of ordinary business care and prudence. (*Ibid.*) Accordingly, OTA finds that appellant has not met its burden to establish reasonable cause to abate the late-filing penalties for the 2021 and 2022 tax years.

Lastly, R&TC section 19132.5 provides for a one-time abatement of the late-filing penalty but only for individual taxpayers with a good tax compliance history and only for tax years beginning on or after January 1, 2022. Therefore, as a business entity, appellant is not entitled to one-time abatement. Further, while the IRS has an administrative program called “First Time Abate,” under which it will abate timeliness penalties if a taxpayer has timely filed returns and paid tax for the certain past years, neither the California Legislature nor respondent

has adopted a comparable penalty abatement program outside of R&TC section 19132.5. (See *Appeal of Auburn Old Town Gallery, LLC*, 2019-OTA-319P.)

Issue 2: Whether appellant has established reasonable cause to abate the per-shareholder late-filing penalties.

R&TC section 19172.5 provides that if any S corporation fails to file a return within the time prescribed (determined with regard to any extension of time for filing), then the S corporation shall be liable for a penalty unless that failure is due to reasonable cause. As with the late-filing penalties, appellant does not dispute that the per-shareholder late-filing penalties were properly imposed or computed. Instead, appellant reasserts the same arguments above that it has reasonable cause to abate these penalties for the 2021 and 2022 tax years because it was unaware of its filing requirements, and, alternatively, it is entitled to one-time penalty abatement for both years.

However, as previously concluded, appellant has not established that its failure to file timely California tax returns for 2021 and 2021 occurred despite the exercise of ordinary business care and prudence. (See *Appeal of Quality Tax & Financial Services, Inc.*, 2018-OTA-130P.) Accordingly, OTA finds that appellant has not demonstrated reasonable cause to abate the per-shareholder late-filing penalties for the 2021 and 2022 tax years. Furthermore, as a business entity, appellant is not entitled to one-time abatement of these penalties. (See R&TC, § 19132.5 [only applying to individuals and not covering the R&TC section 19172.5 penalty].)

Issue 3: Whether appellant has established a legal basis to abate the estimated tax penalties.

A corporation subject to the franchise tax must pay estimated tax. (R&TC, § 19023.) If the amount of estimated tax does not exceed the minimum franchise tax, the entire amount of the estimated tax is due on or before the fifteenth day of the fourth month of the taxable year. (R&TC, § 19025(a).) A corporation that underpays its estimated tax is penalized by an addition to tax equal to a specified rate of interest applied to the amount of the underpayment. (R&TC, §§ 19142, 19144.) Relief from the estimated tax penalty is not available upon a showing of reasonable cause, although limited statutory exceptions to the penalty exist. (R&TC, §§ 19142(b), 19147, 19148; *Appeal of Weaver Equipment Co.* (80-SBE-048) 1980 WL 4976.)

Appellant does not dispute that it failed to make timely estimated tax payments or argue that respondent did not properly compute the estimated tax penalties. Appellant did not remit any estimated payments during the tax years at issue. There is no reasonable cause exception or other ground upon which the estimated tax penalties might be abated. Therefore, appellant has not established a legal basis to abate the penalties for the 2021 and 2022 tax years.

Issue 4: Whether appellant has established a legal basis to abate 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 Summit Hosting LLC*, 2021-OTA-216P.) 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 Summit Hosting LLC*, *supra*.) There is no reasonable cause exception to the imposition of interest. (*Appeal of Summit Hosting LLC*, *supra*.) To obtain relief from interest, appellant must qualify under R&TC section 19104 or 21012; however, based on the evidence and appellant's arguments, none of these statutory provisions apply.<sup>1</sup> Thus, appellant has not established any basis for interest abatement for the 2021 and 2022 tax years.

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<sup>1</sup> Pursuant to R&TC section 19104, respondent is authorized to abate or refund interest if there has been an unreasonable error or delay in the performance of a ministerial or managerial act by an employee of respondent. Here, appellant does not assert any such errors or delays occurred. OTA also notes that relief pursuant to R&TC section 21012 is not relevant here because respondent did not provide appellant with any written advice.

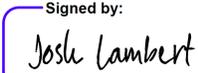
HOLDINGS

1. Appellant has not established reasonable cause to abate the late-filing penalties.
2. Appellant has not established reasonable cause to abate the per-shareholder late-filing penalties.
3. Appellant has not established a legal basis to abate the estimated tax penalties.
4. Appellant has not established a legal basis to abate interest.

DISPOSITION

Respondent's actions denying appellant's claims for refund are sustained.

Signed by:  
  
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 Hans Famularo  
 Administrative Law Judge

We concur:  
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 Josh Lambert  
 Administrative Law Judge

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 Steven Kim  
 Administrative Law Judge

Date Issued: 10/30/2025