

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
NOTFRIENDS, INC.) OTA Case No. 240616472
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OPINION

Representing the Parties:

For Appellant: Aaron Garber, President

For Respondent: Shah H. Khan, Program Specialist

S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Notfriends, Inc. (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$30.62 for the 2019 tax year and \$656.58 for the 2022 tax year.

Office of Tax Appeals (OTA) Panel Members Sara A. Hosey, Seth Elsom, and Keith T. Long held a virtual oral hearing for this matter on July 16, 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 reasonable cause to abate the underpayment and monthly penalty (late payment penalty) imposed pursuant to R&TC section 19132 for the 2022 tax year.
2. Whether appellant has established any basis to abate the estimated tax penalty imposed pursuant to R&TC section 19142 for the 2019 and 2022 tax years.
3. Whether appellant has established a basis to abate interest for the 2019 and 2022 tax years.

FACTUAL FINDINGS

1. Appellant filed its Form 100 California Corporation Franchise or Income Tax Return (return) for the 2019 tax year on October 15, 2020. Appellant reported an overpayment of \$657 that appellant requested be applied to the 2020 tax year.
2. Appellant filed its return for the 2022 tax year on June 8, 2023. Appellant reported a total amount due of \$5,151, but listed no payments.
3. FTB sent appellant a Notice of Balance Due (notice) for the 2019 tax year for failure to timely remit estimated tax payments. FTB also sent to appellant a notice for the 2022 tax year for failure to remit timely estimated tax payments.
4. FTB received payments of \$300 and \$1,500 on June 27, 2019, and July 14, 2020, respectively, for the 2019 tax year. FTB received payments of \$5,683.82 and \$39.01 on April 25, 2024, and May 9, 2024, respectively, for the 2022 tax year.
5. Appellant sent Reasonable Cause – Business Entity Claim for Refund Forms for both tax years at issue to FTB on May 9, 2024, which FTB subsequently denied.
6. Appellant filed this timely appeal.

DISCUSSION

Issue 1: Whether appellant has established reasonable cause to abate the late payment penalty imposed pursuant to R&TC section 19132 for the 2022 tax year.

R&TC section 19132(a) imposes a late payment penalty when a taxpayer fails to pay the amount shown as due on the return by the date prescribed for the payment of tax. Generally, the date prescribed for the payment of tax is the due date of the return (without regard to extensions of time for filing). (R&TC, § 19001.) When FTB imposes a penalty, the law presumes that the penalty was imposed correctly, and the taxpayer has the burden of proof to show that reasonable cause exists to support abatement of the penalty. (*Appeal of Red Vision Systems, Inc.*, 2023-OTA-561P.) 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 Friedman*, 2018-OTA-077P.) Unsupported assertions are insufficient to carry the burden of proof. (*Appeal of Red Vision Systems, Inc.*, *supra.*)

Appellant argues that it was not notified of the amount owed, but that once it was notified by FTB, it promptly paid the penalties and interest. While appellant timely filed its 2022 tax return within the automatic extension, it did not make any payments until six months after the

extended filing due date.¹ At the hearing, appellant's president, A. Garber, testified that "the tax wasn't paid with the Form [return]. It may have been I didn't have the money at the time, or I wasn't aware of when the money was due."

Here, appellant has not met its burden to show reasonable cause for the late payment of tax. OTA expects an ordinarily intelligent and prudent businessperson, once aware of their tax liability through a completed tax return showing a balance due, to remit a payment for taxes due on or before the tax due date on that form. Appellant has not shown any actions it took to timely remit payment. Furthermore, ignorance of the law does not excuse the failure to meet statutory deadlines. (*Appeal of GEF Operating, Inc.*, 2020-OTA-057P; see also *United States v. Boyle* (1985) 469 U.S. 241, 251-252 ["It requires no special training or effort to ascertain a deadline and make sure that it is met."].) The California Legislature has charged taxpayers with an unambiguous, precisely defined duty to timely pay their taxes. (R&TC, § 19132.) The law imposes on FTB no corresponding duty (whether fiduciary, agency, or otherwise) to take measures to ensure taxpayers timely meet their payment obligations. Based on the evidence in this appeal, appellant did not exercise ordinary care and prudence in timely paying his tax liability for the 2022 tax year. Thus, appellant has failed to demonstrate reasonable cause for the abatement of the late payment penalty.

Issue 2: Whether appellant has established any basis to abate the estimated tax penalty imposed pursuant to R&TC section 19142 for the 2019 and 2022 tax years.

All corporations incorporated, qualified, or doing business in California, whether active or inactive, must make franchise or income estimated tax payments. (R&TC, §§ 23153(b), 19025(b).) R&TC section 19025 requires corporate taxpayers to pay at least the entire amount of the \$800 minimum franchise tax as an estimated tax payment on or before the fifteenth day of the fourth month of the tax year. Appellant does not dispute the computation or imposition of the estimated tax penalty. Instead, appellant provides the same argument to abate the estimated tax penalty as provided for the late payment penalty, which is lack of notification from FTB.

Unlike the late payment penalty, there is no reasonable cause exception to the imposition of the estimate tax penalty. (*Appeal of Johnson*, 2018-OTA-119P). Appellant does not argue, and there is no evidence to indicate, that any of the limited exceptions to the

¹ FTB allows an automatic six-month extension to individuals to file a return if the return is filed within six months of the original due date. (R&TC, § 18567(a)(1); Cal. Code Regs., tit. 18, § 18567(a).) The automatic six-month extension to file is not an extension of time to pay; tax imposed remains due on the original due date of the return. (Cal. Code Regs., tit. 18, § 18567(a).)

mandatory imposition of the estimate tax penalty apply in this case.² Appellant, a C corporation, did not make the required \$800 minimum franchise tax as an estimated tax payment by its due date of April 15, 2019, or make any additional estimate tax payments for the 2019 tax year. Furthermore, appellant did not make any estimated tax payments for the 2022 tax year. (R&TC §§ 23153, 19025(a)).³ OTA finds the estimate tax penalties for both years were properly imposed and appellant has not provided a sufficient basis to abate the penalties.

Issue 3: Whether appellant has established a basis to abate interest for the 2019 and 2022 tax years.

The imposition of interest is mandatory. (R&TC, § 19101(a); *Appeal of Moy*, 2019-OTA-057P.) Interest is charged from the due date of the tax payment to the date the tax is paid. (R&TC, § 19101(a).) Interest is not a penalty but is compensation for the taxpayer's use of money after it should have been paid to the state. (*Appeal of Moy, supra.*) There is no reasonable cause exception to the imposition of interest and interest can only be waived in certain limited situations when authorized by law. (*Ibid.*)

To obtain interest relief, appellant must qualify under one of the waiver provisions of R&TC sections 19104 (pertaining to unreasonable error or delay by FTB in the performance of a ministerial or managerial act) or 21012 (pertaining to reasonable reliance on the written advice of FTB). R&TC section 19104(a)(1) is an interest relief provision which authorizes FTB to abate only interest on a deficiency or related to a proposed deficiency to the extent that interest is attributable in whole or in part to any unreasonable error or delay by an officer or employee acting in an official capacity in performing a ministerial or managerial act. However, the unreasonable error or delay must occur after FTB contacts a taxpayer in writing regarding the assessment, and the taxpayer cannot contribute to any significant aspect of the error or delay. (*Ibid.*)

Appellant argues that pursuant to R&TC section 19104, interest should be waived because after FTB sent the notices and the penalties were paid, appellant contacted FTB and was told there was no balance due. FTB contacted appellant on October 15, 2021, and April 12, 2024, with bills for the 2019 and 2022 tax years, respectively; therefore, the periods before these dates are not eligible for interest abatement. Furthermore, at the time FTB

² R&TC, §§ 19147, 19148.

³ If the amount of estimated tax does not exceed the minimum tax specified by R&TC section 23153, the entire amount of the estimated tax shall be due and payable on or before the 15th day of the fourth month of the taxable year.

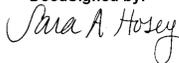
provided account updates to appellant, there was in fact no balance due, as it had been paid prior. Therefore, appellant has not shown a basis to abate interest.

HOLDINGS

1. Appellant has not established reasonable cause to abate the late payment penalty imposed pursuant to R&TC section 19132 for the 2022 tax year.
2. Appellant has not established any basis to abate the estimated tax penalty imposed pursuant to R&TC section 19142 for the 2019 and 2022 tax years.
3. Appellant has not established a basis to abate interest for the 2019 and 2022 tax years.

DISPOSITION

FTB's actions are sustained.

DocuSigned by:

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 Sara A. Hosey
 Administrative Law Judge

We concur:

Signed by:

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 Seth Elsom
 Hearing Officer

DocuSigned by:

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 Keith T. Long
 Administrative Law Judge

Date Issued: 10/20/2025