

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 250218646
R. BALAKRISHNAN AND)
S. PADMANABHAN)
_____)

OPINION

Representing the Parties:

For Appellants: Michael Ajayi, Representative

For Respondent: Andrea Watkins, Attorney

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, R. Balakrishnan and S. Padmanabhan (appellants) appeal actions by respondent Franchise Tax Board (FTB) denying appellants' claims for refund of \$983.38¹ and \$3,521.12² for the 2020 and 2021 tax year, respectively.

Appellants 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).) Appellants 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 appellants have established reasonable cause to abate the late payment penalty for the 2021 tax year.
2. Whether appellants have established a basis to abate the estimated tax penalty for the 2021 tax year.
3. Whether appellants have established a basis to abate interest for the 2020 and 2021 tax years.

¹ This amount is wholly comprised of interest charged for the 2020 tax year.

² This amount is comprised of a late payment penalty of \$636.72, an estimated tax penalty of \$185, and interest of \$2,699.40.

FACTUAL FINDINGS

1. Appellants timely filed their 2020 California Resident Income Tax Return (Return) and timely paid their 2020 tax liability. FTB accepted the 2020 Return as filed.
2. Appellants timely filed their 2021 Return, reporting a tax due of \$10,612. Appellants untimely paid the reported tax due on June 2, 2022.
3. FTB accepted the 2021 Return as filed and assessed the late payment and estimated tax penalties.
4. Appellants filed an amended 2020 Return and 2021 Return on February 9, 2024, and January 22, 2024, respectively, reporting increased taxable income and tax due. Appellants paid the additional balance due for the 2020 and 2021 tax years on January 8, 2024.
5. FTB accepted the amended 2020 Return and 2021 Return as filed and imposed applicable interest for both years. Appellants paid the additional interest due.
6. Appellants filed claims for refund of the penalties and interest for the 2020 and 2021 tax years based on reasonable cause.
7. FTB denied the claims for refund, and this timely appeal followed.

DISCUSSION

Issue 1: Whether appellants have established reasonable cause to abate the late payment penalty for the 2021 tax year.

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 tax. Generally, the date prescribed for the payment of tax is the original due date of the return. (R&TC, § 19001.) For individual taxpayers, like appellants, the 2021 return was originally due April 15, 2022. (R&TC, § 18566.) Appellants paid their tax due on June 2, 2022. Therefore, the late payment penalty was 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 business care and prudence. (*Appeal of Rougeau*, 2021-OTA-335P.)

Appellants do not dispute that their June 2, 2022 payment was untimely. Rather, appellants contend that they filed their amended 2021 Return based on the receipt of an amended Schedule K-1 and should not be subject to penalties based on information that was

not available at the time of filing the original Return. However, the imposition of the late payment penalty is the result of appellants' untimely June 2, 2022 payment of their originally reported unpaid tax liability of \$10,612 and is unrelated to the filing of the amended Return.³ Appellants do not provide any argument addressing their failure to timely pay their original tax liability. Therefore, appellants have not established a basis to abate the late payment penalty.

Issue 2: Whether appellants have established a basis to abate the estimated tax penalty for the 2021 tax year.

R&TC section 19136 conforms to Internal Revenue Code (IRC) section 6654, with certain exceptions, and imposes an addition to tax, which is treated as a penalty, where a taxpayer fails to timely pay estimated tax. There is no provision in the IRC or R&TC that allows the estimated tax penalty to be abated solely on a finding of reasonable cause. (*Appeal of Johnson*, 2018-OTA-119P.) The estimated tax penalty may be waived under two limited conditions: (1) the underpayment of tax was due to "casualty, disaster, or other unusual circumstances" such that imposition of the penalty would be "against equity and good conscience"; or (2) if during the tax year or the preceding year, the taxpayer either retired after having attained age 62 or became disabled, and the underpayment was due to reasonable cause and not willful neglect. (IRC, § 6654(e)(3)(A)-(B).)

Appellants do not dispute that they failed to make timely payments of their estimated tax for the 2021 tax year. Appellants' sole argument is that their amended 2021 Return should not be subject to penalties because it was filed based on an amended Schedule K-1 they received in July 2023. However, the record indicates the estimated tax penalty was imposed prior to the filing of the amended Return and based solely on appellants' originally reported tax liability. Appellants do not provide any argument addressing their failure to make timely estimated tax payments of their original tax liability. Therefore, appellants have not established a basis to abate the estimated tax penalty.

Issue 3: Whether appellants have established a basis to abate interest for the 2020 and 2021 tax years.

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.

³ On appeal, FTB provides appellants' 2021 account transcript that confirms FTB did not impose penalties based on the amended 2021 Return. The late payment penalty of \$636.72 was computed based solely on appellants' originally reported unpaid tax of \$10,612.

(*Appeal of Moy*, 2019-OTA-057P.) To obtain relief from interest, a taxpayer 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), 19112 (extreme financial hardship),⁴ or 21012 (reasonable reliance on FTB's written advice).

On appeal, appellants provide arguments to abate interest that are equitable in nature. Appellants assert that in 2023, appellants' wholly owned pass-through entity was approved for a federal Employee Retention Tax Credit (ERTC). Appellants contend that in July 2023, the entity received checks from the IRS as retroactive payments of ERTC credits for the 2020 and 2021 tax years; at that time, the entity issued amended Schedules K-1 and appellants filed amended 2020 and 2021 Returns. Appellants argue that interest should not be imposed on the increased tax liability that resulted from the ERTC because they did not have use of the money until they received the checks in 2023.

As explained above, a taxpayer must qualify under a statutory provision to waive the mandatory imposition of interest. Appellants do not allege that any statutory provision for interest abatement applies to the facts of this case, and the evidence in the record does not support a finding that any of the statutory provisions apply. Therefore, appellants have not established a basis for interest abatement.

⁴ OTA has no authority to review FTB's denial of a request to waive interest under R&TC section 19112. (*Appeal of Moy*, *supra*.)

HOLDINGS

1. Appellants have not established reasonable cause to abate the late payment penalty for the 2021 tax year.
2. Appellants have not established a basis to abate the estimated tax penalty.
3. Appellants have not established a basis to abate interest for the 2020 and 2021 tax years.

DISPOSITION

FTB's actions denying appellants' claims for refund are sustained.

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Erica Parker
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Erica Parker
Hearing Officer

Date Issued: 10/30/2025