

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
A1 TRUCKING INC.) OTA Case No. 240115113
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OPINION

Representing the Parties:

For Appellant: Lovepreet Singh, Owner

For Respondent: Yadi Li, Graduate Student Assistant

For Office of Tax Appeals: John Yusin, Attorney

K. SHELTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) sections 19324 and 19331, A1 Trucking Inc. (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$1,062.95¹ for the 2021 short tax year ending December 31, 2021.

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).

¹ Appellant’s refund claim of \$1,062.95 is comprised of the following amounts: principal income tax of \$484, a late-filing penalty of \$121, a per-shareholder late-filing penalty of \$126, an underpayment of estimated tax penalty of \$6.11, interest of \$19.87, and a collection cost recovery fee of \$307, with \$1.03 of the liability cancelled by respondent (which respondent did not omit from the amount of its claim on its Request for Appeal). Respondent did not act on appellant’s refund claim related to the underpayment of estimated tax penalty of \$6.11, but agrees the penalty is properly on appeal because it was deemed denied under R&TC section 19331 and, therefore, OTA shall consider it.

In addition, because appellant self-reported income tax of \$484 on its 2021 Form 100S and makes no specific contention on appeal regarding its refund claim of this self-reported tax, OTA finds no grounds for adjusting it and, therefore, will not discuss it further in this Opinion.

ISSUES

1. Whether appellant has demonstrated reasonable cause to abate the late-filing penalty or per-shareholder late-filing penalty.
2. Whether appellant has established it is entitled to abatement of the underpayment of estimated tax penalty (estimated tax penalty).
3. Whether appellant has established it is entitled to interest abatement.
4. Whether appellant has established it is entitled to abatement of the collection cost recovery fee.

FACTUAL FINDINGS

1. Appellant was taxed as an S corporation and had one shareholder for the 2021 tax year.
2. On October 14, 2022, appellant untimely filed its 2021 Form 100S California S Corporation Franchise or Income Tax Return for its short tax year beginning April 29, 2021 (when it filed its Articles of Incorporation in California), and ending December 31, 2021. Appellant reported net income of \$32,287 and tax of \$484 ($\$32,287 \times 0.015$) for its 2021 short year. Appellant also self-assessed penalties and interest of \$6, and paid these amounts when it filed its return. Appellant did not pay estimated taxes.
3. Respondent processed appellant's return and accepted the tax reported of \$484, but issued appellant a notice that asserted a late-filing penalty of \$121, a per-shareholder late-filing penalty of \$126, and an estimated tax penalty of \$6.11, plus interest.
4. Respondent sent appellant a Corporation Past Due Notice on January 5, 2023, which stated that if appellant did not pay the balance due of \$259.27 by January 20, 2023, respondent may, among other things, impose collection cost recovery fees.
5. Respondent sent a Corporation Formal Demand to appellant on March 1, 2023, which stated that respondent would initiate collection actions if appellant did not pay the increased balance due of \$261.23 by March 16, 2023, and that if appellant failed to comply, respondent may, among other things, impose a collection cost recovery fee.
6. On May 5, 2023, appellant filed a Reasonable Cause – Business Entity Claim for Refund, requesting a refund of \$261.23. However, appellant had not yet paid its 2021 tax liability in full, and the claim was not perfected.
7. Respondent sent a Corporation Final Notice Before Levy and Lien to appellant on May 15, 2023, which explained that collection action with collection fees would begin against appellant if the amount due was not paid by the designated due date of May 30, 2023.

8. Respondent issued an Electronic Order to Withhold Corporation Tax on July 7, 2023, to appellant's banking institution to enforce payment of appellant's outstanding tax liability for the 2021 tax year.
9. Appellant paid its liability in full on July 27, 2023.
10. On September 13, 2023, appellant filed a second Reasonable Cause – Business Entity Claim for Refund totaling \$1,062.95, which sought abatement of the tax, the late-filing penalty, the per-shareholder late-filing penalty, the estimate tax penalty, the collection cost recovery fee, and interest. Appellant attached its Offense-Incident Report from the Miami-Dade Police Department reflecting the theft of appellant's truck during the 2021 tax year.
11. Respondent denied appellant's claim for refund.
12. This timely appeal followed.

DISCUSSION

Issue 1: Whether appellant has demonstrated reasonable cause to abate the late-filing penalty or per-shareholder late-filing penalty.

Respondent has asserted, and appellant has paid, two late-filing penalties against appellant: a late-filing penalty under R&TC section 19131, and a late-filing penalty that is asserted against an S-corporation taxpayer based on the number of shareholders (the per-shareholder late-filing penalty), under R&TC section 19172.5.

California imposes a late-filing penalty if a taxpayer fails to file its return by the due date or the extended due date, unless the failure to file was due to reasonable cause and not due to willful neglect. (R&TC, § 19131.) California also imposes a per-shareholder late-filing penalty on an S corporation that fails to file a return on or before the due date, determined with regard to any extension of time for filing, unless that failure is due to reasonable cause.² (R&TC, § 19172.5.)

When respondent imposes any late-filing penalty, the penalty is presumed to have been correctly imposed, and the taxpayer has the burden of proof to show that reasonable cause exists to abate the penalty. (*Appeal of Xie*, 2018-OTA-076P.) A taxpayer must show that the failure to timely file a return occurred despite the exercise of ordinary business care and prudence, or that cause existed as would prompt an ordinarily intelligent and prudent

² Showing a lack of willful neglect is not required to abate the penalty under R&TC section 19172.5.

businessperson to have so acted under similar circumstances. (*Appeal of GEF Operating, Inc.*, 2020-OTA-057P.)

There is no dispute that respondent properly imposed and calculated the late-filing and per-shareholder late-filing penalties. Rather, appellant asserts reasonable cause exists to abate both penalties.

Appellant contends that the theft of its truck during the 2021 tax year had a cascading effect on the business operations that caused it to file its return after the statutory due date. More specifically, appellant asserts that the theft impacted its ability to meet its tax obligations as it caused the following: (1) “operational disruptions” caused by the loss of certain essential documents that were inside the stolen truck, which were necessary to prepare its return; (2) a negative impact on its operations because appellant had to take time to replace the truck and manage insurance claims; and (3) financial hardship.

Appellant’s loss of documentation related to the preparation of its return does not establish reasonable cause because lack of documentation does not, by itself, constitute reasonable cause. (*Appeal of Moren*, 2019-OTA-176P.) Additionally, “an assertion that records were difficult to obtain without any substantiation of efforts made to retrieve those records or otherwise showing that they were unobtainable is not sufficient to show reasonable cause.” (*Ibid.*) Appellant has not sufficiently established what steps it took, if any, to timely obtain or replace the stolen documents that were necessary for the preparation of its return, nor provided any details substantiating either the negative impact of the theft on appellant’s operation or the creation of financial hardship.

Lastly, while the IRS has an administrative program called “First Time Abate,” under which it will abate timeliness penalties if a taxpayer had timely filed returns and paid tax for the past three years, neither the California Legislature nor respondent has adopted a comparable penalty abatement program for business entities. (See R&TC, § 19132.5; see also *Appeal of Scanlon*, 2018-OTA-075P.) Accordingly, appellant has not established reasonable cause to abate either the late-filing or per-shareholder late-filing penalties.

Issue 2: Whether appellant has established it is entitled to abatement of the estimated tax penalty.

Respondent asserted, and appellant paid, a penalty of \$6.11 for the appellant’s failure to pay the estimated tax on taxable income of \$32,287 and income tax of \$484.

A corporation that is subject to income tax in California must pay an estimated tax equal to the greater of either the amount of estimated tax based on its income or the amount of the

minimum franchise tax. (R&TC, § 19023.) A corporation does not pay the \$800 minimum franchise tax in its first taxable year if the corporation is incorporated in, or is qualified to do business in, California; therefore, as here, the corporation would compute its estimated tax liability based on its California net income and the appropriate tax rate, i.e., a tax on net income. (R&TC, § 23151, 23153(f)(1).) A corporation that underpays its estimated tax is liable for an addition to tax equal to a specified rate of interest applied to the amount of the underpayment unless a statutory exception applies. (R&TC, §§ 19142, 19144.)

Appellant does not dispute respondent's computation of the estimated tax penalty of \$6.11. Rather, as with the penalties discussed above, appellant asserts the same reasonable cause arguments to abate the estimated tax penalty.

There is no general reasonable cause exception to the imposition of the estimated tax penalty. (*Appeal of Weaver Equipment Co.* (80-SBE-048) 1980 WL 4976.)

Appellant presents the same reasonable cause arguments it made with respect to the late-filing penalties (discussed above) for its request to abate the estimated tax penalty. The estimated tax penalty cannot be abated based on a showing of reasonable cause. Appellant does not contend, and the evidence does not show, that any statutory exceptions apply. Therefore, the estimated tax penalty cannot be abated.

Issue 3: Whether appellant has established it is entitled to interest abatement.

Respondent asserted, and appellant paid, interest of \$19.87.

Interest is assessed from the date a tax payment is due through the date that it is paid. (R&TC, § 19101(a).) Imposing interest is mandatory; it is compensation for a taxpayer's use of money after it should have been paid to the state. (*Appeal of Moy*, 2019-OTA-057P.) There is no reasonable cause exception to the imposition of interest. (*Ibid.*) To obtain interest relief, a taxpayer must qualify under one of the waiver provisions of R&TC section 19104 (pertaining to unreasonable error or delay by respondent in the performance of a ministerial or managerial act) or 21012 (pertaining to reasonable reliance on the written advice of respondent).

Appellant does not allege, and the record does not contain any evidence, that any of these waiver provisions are applicable here. Therefore, appellant has not established it is entitled to interest abatement.

Issue 4: Whether appellant has established it is entitled to abatement of the collection cost recovery fee.

Respondent asserted, and appellant paid, a fee of \$307 for the cost of its collection against appellant under R&TC section 19254(a)(1).

Respondent shall impose a fee if a taxpayer fails to timely pay any amount of tax, penalty, addition to tax, interest, or other liability after respondent mails a notice to the taxpayer requesting payment and the notice advises that the continued failure to pay may result in continued collection action, including imposition of the collection cost recovery fee. (R&TC, § 19254(a)(1).) There is no reasonable cause defense to the imposition of the fee, which limits OTA to determining whether respondent complied with the statutory notice requirements for imposing the fee. (*Appeal of Auburn Old Town Gallery, LLC*, 2019-OTA-319P.)

Here, respondent issued a Corporation Past Due Notice to appellant dated January 5, 2023, a Corporation Formal Demand notice on March 1, 2023, and a Corporation Final Notice Before Levy and Lien on May 15, 2023, in which appellant was informed that failure to pay the liability may result in collection action and imposition of the fee. Since appellant failed to pay the liability in response to those notices, the fee was properly imposed under R&TC section 19254(a)(1) and appellant does not dispute otherwise. Therefore, respondent's imposition of the fee is sustained.

HOLDINGS

1. Appellant has not demonstrated reasonable cause to abate the late-filing penalty or per-shareholder late-filing penalty.
2. Appellant has not established it is entitled to abatement of the estimated tax penalty.
3. Appellant has not established it is entitled to interest abatement.
4. Appellant has not established it is entitled to abatement of the collection cost recovery fee.

DISPOSITION

Respondent's action denying appellant's refund claim is sustained.

Signed by:

L. katrine Shelton

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L. Katrine Shelton
Administrative Law Judge

We concur:

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Kenneth Gast

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Kenneth Gast
Administrative Law Judge

DocuSigned by:

Huy "Mike" Le

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Huy "Mike" Le
Administrative Law Judge

Date Issued: 11/19/2025