

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 231114714
D. NEYLON AND)
L. NEYLON)
_____)

OPINION

Representing the Parties:

For Appellants: D. Neylon and L. Neylon

For Respondent: AnaMarija Antic-Jezildzic, Specialist

For Office of Tax Appeals: Amber Poon, Attorney

N. RALSTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, D. Neylon and L. Neylon (appellants) appeal an action by the Franchise Tax Board (respondent) proposing additional tax of \$17,732 and applicable interest for the 2019 tax year.

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 error in respondent’s proposed assessment of additional tax.
2. Whether appellants have established a basis for interest abatement.

FACTUAL FINDINGS

1. Appellants filed a timely 2019 California Resident Income Tax Return (Return) reporting a refund due of \$18,333. Respondent accepted appellants’ Return and issued a refund of \$18,333.
2. Subsequently, respondent determined that appellants incorrectly subtracted wages on their Schedule CA. Therefore, on April 21, 2023, respondent issued a Notice of Proposed Assessment (NPA) increasing appellants’ taxable income by the same amount

that had been incorrectly subtracted. The NPA proposed an additional tax of \$17,732, plus applicable interest.

3. Respondent received appellants' protest, in which appellants disputed respondent's proposed assessment.
4. In response, respondent issued correspondence explaining to appellants that appellants incorrectly subtracted wages on their Schedule CA.
5. Respondent subsequently issued a Notice of Action, affirming the NPA.
6. This timely appeal followed.

DISCUSSION

Issue 1: Whether appellants have established error in respondent's proposed assessment of additional tax.

California residents are taxed on their entire taxable income (regardless of source), while nonresidents are only taxed on income from California sources. (R&TC, §§ 17041(a), (b), & (i), 17951.) Part-year residents are taxed on their income (regardless of source) earned while residents of this state, as well as all income derived from California sources while nonresidents. (R&TC, § 17041(b) & (i).) It is well established that respondent's determinations of fact are presumed correct, and a taxpayer has the burden of proving error. (*Appeal of Head and Feliciano*, 2020-OTA-127P.) Generally, the burden of proof requires proof by a preponderance of the evidence, that is, the taxpayer must establish that the taxpayer's assertions are more likely than not to be correct. (Cal. Code Regs., tit. 18, § 30219(c); *Appeal of Estate of Gillespie*, 2018-OTA-052P.) In the absence of credible, competent, and relevant evidence showing respondent's determination is incorrect, it must be upheld. (*Appeal of Valenti*, 2021-OTA-093P.)

Appellants do not dispute that they were California residents during the 2019 tax year and, therefore, were subject to California tax on all income earned. Instead, appellants argue that they relied on TurboTax software to prepare and file their Return; thus, they were unaware of any issues with their Return until they received the NPA. Because appellants have not provided any information or documentation to support why the income in question is not taxable, appellants have not met their burden in establishing error in respondent's proposed assessment for the 2019 tax year.

Issue 2: Whether appellants have established a basis for interest abatement.

Interest must be 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 not a penalty, but it is

compensation for the 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 abatement, a taxpayer must qualify under the waiver provisions of R&TC section 19104, 19112 or 21012.6. R&TC section 19104 provides for interest abatement when the interest is attributable in whole or in part to any unreasonable error or delay by respondent when performing a ministerial or managerial act. R&TC section 19112 allows respondent to abate interest, but requires the taxpayer to demonstrate extreme financial hardship caused but significant disability or other catastrophic circumstance. R&TC section 21012 provides for interest abatement when a taxpayer reasonably relied on respondent's written advice.

Here, appellants have not established that there was any unreasonable error or delay by respondent.¹ Appellants have not indicated that they suffered extreme financial hardship. Furthermore, there is no evidence that appellants obtained or reasonably relied on written advice from respondent. Therefore, appellants have not demonstrated any legal grounds for interest abatement.


¹ Furthermore, OTA, however, does not have jurisdiction to review respondent's interest abatement determination under R&TC section 19112. (*Appeal of Moy*, 2019-OTA-057P.)

HOLDINGS

1. Appellants have not established error in respondent's proposed assessment of additional tax.
2. Appellants have not established a basis for interest abatement.


DISPOSITION

Respondent's action is affirmed.


Signed by:


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 Natasha Ralston
 Administrative Law Judge

We concur:

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 Amanda Vassigh
 Administrative Law Judge

Signed by:


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 Hans Famularo
 Administrative Law Judge

Date Issued: 12/8/2025