

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
FILAMENT LIGHTING, LLC) OTA Case No. 250218853
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OPINION

Representing the Parties:

For Appellant: Wilson Chen, CPA

For Respondent: Amelia Breen, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Filament Lighting, LLC (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$2,011.77¹ for the taxable year ending December 31, 2023.

Appellant 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).) 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 payment penalty.
2. Whether appellant has established a basis to abate interest.

FACTUAL FINDINGS

1. Appellant is an LLC that made the following payments on its account for the taxable year ending December 31, 2023: \$800 on April 20, 2023, \$6,000 on April 30, 2023, \$5,790 on March 27, 2024, and \$24,185 on May 2, 2024.

¹ This amount consists of a \$1,769.49 late payment penalty and \$242.28 of interest.

2. Appellant filed its Form 568 for the taxable year ending December 31, 2023, on July 17, 2024, reporting \$36,774 of total taxes and fees, \$6,800 of payments, and \$29,974 due.
3. FTB issued appellant a Return Information Notice informing appellant that FTB assessed a late payment penalty of \$1,769.49, plus interest.
4. Appellant paid the balance due and filed a claim for refund requesting abatement of the late payment penalty and interest.
5. FTB denied appellant's claim for refund. This timely appeal follows.

DISCUSSION

Issue 1: Whether appellant has established reasonable cause to abate the late payment penalty.

R&TC section 19132 provides that a late payment penalty shall be imposed when a taxpayer fails to pay the amount shown as due on the return on or before the due date of the return. The late payment penalty 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).) To establish reasonable cause for a late payment of tax, a taxpayer must show that their failure to make a timely payment of tax occurred despite the exercise of ordinary business care and prudence. (*Appeal of Scanlon*, 2018-OTA-075P.)

The determination of whether reasonable cause exists for the late payment requires an analysis of an appellant's actions leading up to the late payment, the timing of those actions, and whether they reflect ordinary business care and prudence, such as an ordinarily intelligent and prudent businessperson would have performed under similar circumstances. (*Appeal of Moren*, 2019-OTA-176P.) Difficulty in calculating a tax liability does not, by itself, constitute reasonable cause for a late payment of tax. (*Ibid.*) In determining whether reasonable cause exists, the "most important factor ... is the extent of the taxpayer's effort to assess his or her proper tax liability." (*Ibid.*, citing *Frias v. Commissioner*, T.C. Memo. 2017-139, at pp. *16-*17.) Where a taxpayer has the information necessary to make a reasonably accurate calculation of its tax liability, the taxpayer's failure to do so shows something less than ordinary business care and prudence. (See *Appeal of Cerwin-Vega International* (78-SBE-070) 1978 WL 3543.)

Appellant does not dispute the imposition or computation of the late payment penalty but asserts that reasonable cause exists to abate the penalty. Specifically, appellant contends that it was required for the first time to withhold income on behalf of its foreign partners, that this complex requirement was only identified during the tax filing process, and that appellant paid its

tax liability in full as soon as it becomes aware of the underpayment. Appellant additionally contends that it has a history of timely filing and paying taxes and requests abatement based on its compliance history and general principles of equity and fairness.

Appellant does not dispute that it had the information necessary to calculate its California tax liability, only that the complexity of the tax calculation caused the delay. However, difficulty in calculating a tax liability does not, by itself, constitute reasonable cause for a late payment of tax. (*Appeal of Moren, supra.*) Appellant has not established what steps it took, if any, to timely calculate and pay its California tax liability. Accordingly, appellant has not established reasonable cause to abate the late payment penalty.

Appellant urges OTA to apply equitable principles of fairness and abate the late payment penalty. However, R&TC section 19132 provides the exclusive remedy for abatement of the late payment penalty, and appellant has not met the standard for abatement under this section.

As to appellant's request for abatement based on its compliance history, OTA lacks authority to grant the requested relief. R&TC section 19132.5 authorizes one-time abatement of state income taxes for *individual* filers with a good filing history for tax years starting on and after January 1, 2022. Here, appellant is a business entity, not an individual filer, and thus, OTA is not authorized to grant appellant's request for a one-time abatement of the late filing penalty.

Issue 2: Whether appellant has established a basis to abate interest.


Appellant does not make any specific arguments for interest abatement. Generally, to obtain a waiver of interest, a taxpayer must qualify under R&TC section 19104, 19112, or 21012. However, OTA lacks jurisdiction to abate interest under R&TC section 19112. (*Appeal of Moy, 2019-OTA-057P.*) Appellant does not allege that R&TC section 19104 or 21012 are applicable to the facts of this appeal, and based on the record, OTA concludes that these provisions do not apply. Accordingly, OTA will not address interest abatement further.

HOLDINGS

1. Appellant has not established reasonable cause to abate the late payment penalty.
2. Appellant has not established a basis to abate interest.

DISPOSITION

FTB's denial of appellant's claim for refund is sustained.

Signed by:

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Veronica I. Long
Administrative Law Judge

Date Issued: 11/21/2025