

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)
NORTH BAY PRESSURE WASHING, INC.) OTA Case No. 241218282
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)

OPINION

Representing the Parties:

For Appellant: Ryan ReBell, Representative

For Respondent: Vicky M. Leclerc, Specialist

K. SHELTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, North Bay Pressure Washing, Inc. (appellant) appeals an action by respondent Franchise Tax Board (respondent) denying appellant’s claim for refund of \$6,843¹ for the 2019 tax year.

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 for abatement of the understatement of estimated tax penalty (estimated tax penalty).
3. Whether appellant has established a basis for the abatement of interest.

¹ Respondent initially denied appellant’s claim for refund as untimely because of the expiration of the statute of limitations. Respondent concedes on appeal that appellant timely filed its claim for refund. However, respondent does not concede the adjustments for which appellant claimed a refund, which are identified in a Corporation Past Due Notice reflecting a balance due of \$6,843.68. The total amount at issue consists of the late-payment penalty of \$474.65 (\$395.54 + \$79.11), interest of \$927.94, and the estimated tax penalty of \$374.95, for a total of \$1,777.54. The remainder of the claim for refund, \$5,066.14 (\$6,843.68 - \$1,777.54), represents appellant’s self-reported tax liability, which neither appellant nor respondent challenges.

FACTUAL FINDINGS

1. Appellant timely filed its Form 100S, California S Corporation Franchise or Income Tax Return for the 2019 tax year (Return) on September 15, 2020. On the Return, appellant reported a total tax liability of \$19,046, estimated tax payments of \$11,064, tax due of \$7,982, and penalties and interest of \$924, for a total amount due of \$8,906.
2. On September 15, 2020, appellant paid the amount due of \$8,906, for total payments made (including estimated taxes) of \$19,970.
3. Appellant filed a Form 100X Amended Corporation Franchise or Income Tax Return for the 2019 tax year (Amended Return) on September 16, 2022, on which it reported an additional tax liability of \$5,868 (for a total tax liability of \$24,914), and an amount due of \$4,944.
4. Respondent processed the Amended Return and accepted the additional tax reported. On October 13, 2023, respondent issued appellant a Corporation Past Due Notice, reflecting a balance due of \$6,843.68, which was comprised of, among other items, the following unpaid amounts: penalties of \$849.60; and interest of \$860.15. The penalties were comprised of two separate penalties: a late-payment penalty of \$474.65 for appellant's failure to timely pay the taxes due, and an estimated tax penalty of \$374.95 for appellant's failure to timely pay estimated taxes.
5. On November 20, 2023, respondent issued appellant a Corporation Final Notice Before Levy and Lien notifying appellant that its balance due for the 2019 tax year liability had increased to \$6,893.15 due to an increase in interest.
6. Appellant paid in full the balance due of \$6,893.15 on December 4, 2023.
7. On July 25, 2024, appellant filed a Reasonable Cause – Business Entity Claim for Refund (Claim) for the 2019 tax year. In the Claim, appellant requested that respondent refund the penalties and interest, but did not state the refund amount.
8. Respondent denied appellant's Claim on August 28, 2024 (Denial) due to the expiration of the statute of limitations for the Claim.
9. Appellant timely filed its Request for Appeal before the OTA (Appeal) on November 19, 2024. In the Appeal, appellant states the amount of its Claim as \$6,843, but does not identify the separate items (or their dollar amounts) for which it is claiming the refund.² Appellant attached to its Appeal a memorandum addressed to respondent

² See footnote 1, *ante*, page 1.

that it titled "2019 Appeal."

10. After appellant filed its Appeal, respondent concedes that appellant filed its Claim timely, but disputes the basis of appellant's Claim for abatement of penalties and interest.

DISCUSSION

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

Generally, the date prescribed for the payment of the tax is the due date of the return (without regard to extensions of time for filing). (R&TC, § 19001.) The filing and payment due date for an S corporation is generally the 15th day of the third month following the close of the taxpayer's year. (R&TC, § 18601(d)(1).) Due to the COVID-19 pandemic, respondent postponed the filing and payment due dates for the 2019 tax year to July 15, 2020.³

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 has two parts: (1) a penalty equal to five percent of the unpaid tax; and (2) a penalty equal to 0.5 percent of the unpaid tax per month, or portion of a month (not to exceed 40 months). (R&TC, § 19132(a)(2)(A) & (B).)

Appellant's tax liability for the 2019 tax year was due on July 15, 2020; however, it paid its tax liability late, on September 15, 2020. Respondent, therefore, properly imposed the late-payment penalty. Thus, the issue is whether appellant had reasonable cause for the late payment of the taxes.

The late-payment penalty may be abated if a 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 the late payment of tax, a taxpayer must show that the failure to make a timely payment of the proper amount of tax occurred despite the exercise of ordinary business care and prudence, and that an ordinarily intelligent and prudent businessperson would have acted similarly under the circumstances. (*Appeal of Rougeau*, 2021-OTA-335P.) The burden of proving that the taxpayer acted with reasonable cause and not willful neglect is on the taxpayer. (Cal. Code Regs., tit. 18, § 30219(a).)

In its Claim, appellant argues that it has reasonable cause for abatement of the late-payment penalty and interest because its business records partially burned in a fire. Appellant has not provided any support for its argument that its business records were

³ See <https://www.ftb.ca.gov/about-ftb/newsroom/news-releases/2020-3-state-postpones-tax-deadlines-until-july-15-due-to-the-covid-19-pandemic.html>.

destroyed, nor has appellant provided any evidence that indicates which documents it lost, or any discussion as to how the loss of the documents impacted its recordkeeping or its inability to pay its tax liability of \$8,906 between July 15 and September 15, 2020.

In the documents provided labelled “2019 Appeal” attached to its Appeal (in response to respondent’s disallowance of appellant’s Claim on the ground of untimeliness, which respondent now concedes), appellant argues that it was “operating under the Economic Hardship Fire Zone (our business literally burned to the ground inside of the effected fire zone).” Appellant does not provide any details regarding the destruction of its business or whether there is any special relief available due to California state or federal relief measures. The mere assertion of losses and a loss of documentation without any supporting evidence is not sufficient to demonstrate reasonable cause. (*Appeal of Rougeau, supra.*) Accordingly, appellant has not established reasonable cause for the abatement of the late-payment penalty.

Issue 2: Whether appellant has established a basis for abatement of the estimated tax penalty.

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.) The amount of the underpayment of estimated tax is equal to the excess of the amount of the required installment over the amount of the installment (if any) paid before the due date for the installment. (R&TC, § 19144(a).) 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.)

There is no dispute that respondent properly imposed and computed the estimated tax penalty. Rather, appellant asserts the same reasonable cause arguments as with the late-payment penalty discussed above to abate the estimated tax penalty. However, there is no general reasonable cause exception to the imposition of the estimated tax penalty. (*Appeal of Mazdyasni, 2018-OTA-049P.*) Therefore, the estimated tax penalty cannot be abated.

Issue 3: Whether appellant has established a basis for abatement of interest.

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 Balch*, 2018-OTA-159P.) 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).

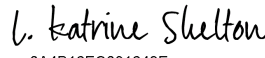
Appellant does not allege, and the record does not contain, any evidence indicating that any of the waiver provisions are applicable here. Therefore, appellant has not established that it is entitled to interest abatement.

HOLDINGS

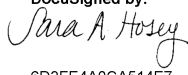
1. Appellant has not established reasonable cause to abate the late-payment penalty.
2. Appellant has not established a basis for the abatement of the estimated tax penalty.
3. Appellant has not established a basis for the abatement of interest.

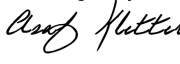
DISPOSITION

OTA sustains respondent’s action denying appellant’s Claim.

Signed by:

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 L. Katrine Shelton
 Administrative Law Judge

We concur:

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 Sara A. Hosey
 Administrative Law Judge

DocuSigned by:

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 Asaf Kletter
 Administrative Law Judge

Date Issued: 12/9/2025