

2. Through FTB's Integrated Non-Filer Compliance Program, FTB obtained information indicating that appellant received income sufficient to require him to file a 2020 tax return. Specifically, FTB received information reported on Form 1099-K, as well as information from the State Bar of California that appellant had an active license to practice law in California.
3. On July 26, 2022, FTB issued appellant a Demand for Tax Return (Demand), requiring that by August 31, 2022, appellant either file a 2020 tax return, send a copy of his 2020 tax return if one had already been filed, or explain why he was not required to file a 2020 tax return. The Demand indicated that FTB would impose a filing enforcement fee if appellant has a filing requirement and fails to file a tax return by the due date stated in the Demand.
4. By letter dated August 31, 2022, appellant indicated that he needed to file his 2020 tax return, but that he was "unable to factor in and implement an appropriately acceptable payment option satisfactory to the [FTB] formula demands."
5. In response, FTB sent appellant a Deferral Letter granting appellant until November 7, 2022, to file his 2020 tax return.
6. When appellant did not file a return by the deferred due date, FTB issued appellant a Notice of Proposed Assessment (NPA) on November 28, 2022. The NPA notified appellant that FTB had no record of receiving appellant's 2020 tax return or information indicating that he does not have a filing requirement, and that FTB estimated appellant's income based on the average income amount reported to FTB by individuals in appellant's type of industry. Based on the information FTB received, the NPA estimated appellant's income and proposed tax of \$10,112, a late filing penalty of \$2,528, a demand penalty of \$2,528, a filing enforcement fee \$100, and applicable interest.
7. Appellant timely protested the NPA, contending that "the failure of [FTB] enclosing proposed and alleged exact income, precludes [appellant] from relevant protest, and disagreement, of reported and miscellaneous income."
8. FTB reviewed appellant's protest and notified appellant by letter dated March 16, 2023, that he still had a 2020 filing requirement and that he was to file his return within 30 days.
9. When appellant did not file a return by the 30-day deadline, FTB issued appellant a Notice of Action on June 5, 2023, affirming the NPA.
10. This timely appeal followed.

11. During the pendency of this appeal, appellant untimely filed his 2020 tax return on October 14, 2023, reporting tax due of \$1,511. FTB accepted appellant's return as filed.
12. FTB concedes that since it accepted appellant's reported tax due of \$1,511, the late filing penalty and the demand penalty should be correspondingly reduced to \$377.75 each.

DISCUSSION

Issue 1: Whether appellant has established reasonable cause for failing to timely file his 2020 tax return.

California imposes a penalty for the failure to file a return on or before the due date, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. (R&TC, § 19131.) To establish reasonable cause, a taxpayer must show that the failure to file a timely return occurred despite the exercise of ordinary business care and prudence, or that cause existed as would prompt an ordinarily intelligent and prudent businessperson to have so acted under similar circumstances. (*Appeal of GEF Operating, Inc.*, 2020-OTA-057P.) Ignorance of the law does not establish reasonable cause and unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Ibid.*)

Appellant does not specifically address the late filing penalty issue and offers no evidence of reasonable cause for his failure to timely file his 2020 return.² Therefore, appellant has not met his burden of showing that his failure to file was due to reasonable cause and not due to willful neglect.

Issue 2: Whether appellant has established reasonable cause to abate the demand penalty.

If any taxpayer fails or refuses to file a tax return or provide information upon notice and demand by FTB, then, unless the failure is due to reasonable cause and not willful neglect, FTB may add a penalty of 25 percent of any deficiency tax assessed by FTB concerning the assessment of which the return was required. (R&TC, § 19133.) The demand penalty will only be imposed if: (1) the taxpayer fails to timely respond to a current Demand in the manner prescribed, and (2) FTB has proposed an assessment of tax under R&TC section 19087(a) after the taxpayer failed to timely respond to a Request for Tax Return or a Demand in the manner prescribed, for any taxable year that is within the four-taxable-year period immediately

² On appeal, appellant contests the basis upon which FTB calculated appellant's estimated income. However, as stated above, appellant untimely filed his 2020 tax return during the pendency of this appeal, which FTB accepted as filed. Thus, appellant's arguments concerning FTB's estimation of his income are moot and appellant has presented no other arguments on appeal.

preceding the taxable year for which the current Demand is issued. (Cal. Code Regs., tit. 18, § 19133(b).)

To establish reasonable cause to abate the demand penalty, a taxpayer has the burden of proof to establish that the failure to timely respond to the Demand in the manner prescribed occurred despite the exercise of ordinary business care and prudence or that an ordinarily intelligent and prudent businessperson would have acted similarly under the circumstances. (*Appeal of Shanahan*, 2024-OTA-039P.) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of GEF Operating, Inc.*, *supra*.)

Appellant does not specifically address the demand penalty issue. Appellant does not argue that the demand penalty was improperly imposed, nor does appellant offer evidence of reasonable cause to abate the penalty. Therefore, appellant has not met his burden of showing that his failure to timely respond to the Demand in the manner prescribed was due to reasonable cause and not due to willful neglect.

Issue 3: Whether the filing enforcement fee may be abated.

FTB shall impose a filing enforcement fee if a taxpayer fails or refuses to file a required tax return within 25 days after FTB mails a formal legal demand to file the tax return. (R&TC, § 19254(a)(2).) Once properly imposed, the statute provides no grounds, including reasonable cause, upon which the fee may be abated. (R&TC, § 19254; see *Appeal of Auburn Old Town Gallery, LLC*, 2019-OTA-319P.) Therefore, OTA's inquiry is limited to whether FTB complied with the statutory notice requirements for imposing the filing enforcement fee.

Here, FTB issued appellant a Demand for the 2020 tax year notifying him that FTB would impose a filing enforcement fee if he has a filing requirement and fails to file a tax return by the due date stated in the Demand. FTB properly imposed the fee after appellant, who has a 2020 tax return filing requirement, did not file a tax return by the deferred Demand due date of November 7, 2022. Since the fee was properly imposed, there is no authority for the abatement of this fee; therefore, OTA cannot abate the filing enforcement fee.

Issue 4: Whether interest may be abated.

The imposition of interest is mandatory and accrues on a tax deficiency regardless of the reason for the underpayment. (R&TC, § 19101(a); *Appeal of Balch*, 2018-OTA-159P.) Interest is not a penalty but is compensation for the taxpayer's use of money which should have been paid to the state, and it can only be abated in certain limited situations when authorized by law. (*Appeal of Moy*, 2019-OTA-057P.) There is no reasonable cause exception to the imposition of interest. (*Ibid.*)

To obtain interest relief, appellant must qualify under one of the provisions of R&TC sections 19104 (pertaining to unreasonable error or delay by FTB in the performance of a ministerial or managerial act), 19112 (pertaining to extreme financial hardship caused by significant disability or other catastrophic circumstance),³ or 21012 (pertaining to reasonable reliance on the written advice of FTB). (*Appeal of Moy, supra.*) Appellant does not allege, and the record does not indicate, that any of these provisions apply. Therefore, there is no legal basis for interest abatement.

HOLDINGS

1. Appellant has not established reasonable cause for failing to timely file his 2020 tax return.
2. Appellant has not established reasonable cause to abate the demand penalty.
3. The filing enforcement fee may not be abated
4. Interest may not be abated.

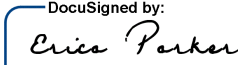
DISPOSITION

As conceded by FTB, the tax due is reduced to \$1,511, the late filing penalty is reduced to \$377.75, the demand penalty is reduced to \$377.75, and interest is correspondingly reduced; otherwise, FTB’s action is sustained.


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 Sheriene Anne Ridenour
 Administrative Law Judge

We concur:
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 Erica Parker
 Hearing Officer

Signed by:

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 Suzanne B. Brown
 Administrative Law Judge

Date Issued: 11/20/2025

³ OTA does not have the legal authority to review or overturn FTB’s denial of a waiver of interest based on extreme financial hardship. (*Appeal of Moy, supra.*)