

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 250319029
BRUCE HORNG J. LIN, MD, PC)
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OPINION

Representing the Parties:

For Appellant: Sophia Lin, Representative

For Respondent: Vicki M. Leclerc, Program Specialist

For Office of Tax Appeals: Chloe Sin, Graduate Student Assistant

K. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Bruce Horng J. Lin, MD, PC (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant’s claim for refund of \$5,832.45 for the 2023 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 for the late payment of tax.
2. Whether appellant has established a basis to abate the estimated tax penalty.

FACTUAL FINDINGS

1. Appellant, an S corporation, filed a timely California S Corporation Franchise or Income Tax Return (Form 100S) (return) for the 2023 tax year. On the return, appellant reported income tax of \$15,207 and a pass-through entity elective tax (PTET) of \$94,282. Appellant reported payments totaling \$160,191, which includes estimated payments of \$22,272 and a PTET payment of \$137,919, and claimed a refund of \$50,702.
2. FTB accepted appellant’s return as filed. However, FTB records reflected that appellant only made PTET payments totaling \$18,600.

3. On September 11, 2024, FTB issued a Return Information Notice reducing appellant's total payments to \$40,872 and showing a tax due of \$68,617, plus applicable interest. FTB also imposed an estimated tax penalty of \$71.11 and a late payment penalty of \$5,489.36.
4. FTB received payments on September 24, 2024, and September 30, 2024, satisfying appellant's liability in full.
5. On October 15, 2024, appellant filed a Reasonable Cause – Business Entity Claim for Refund, requesting a refund of the late payment penalty based on reasonable cause.
6. On December 23, 2024, FTB denied appellant's refund claim.
7. This timely appeal followed.

DISCUSSION

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

A late payment penalty is imposed when a taxpayer fails to pay the amount shown on the return by the date prescribed for the payment of tax. (R&TC, § 19132(a).) Generally, the date prescribed for the payment of the tax is the due date of the return, without regard to any extension of time for filing the return. (R&TC, § 19001.) For an "S" corporation, such as appellant, the due date of its return, without regard to any extension, and the date prescribed for payment of the tax, is the 15th day of the third month following the close of its taxable year. (R&TC, § 18601(d).)

While FTB allows an automatic six-month extension to file a return if the return is filed within six months of the original due date, an extension of time to file the return is not an extension of time to pay. (R&TC, §§ 18567, 18604; see also *Appeal of Bannon*, 2023-OTA-096P.) Accordingly, although appellant timely filed its 2023 tax return before the extended due date of September 15, 2024, the payment for the return was due on March 15, 2024. (R&TC, § 23801.) Therefore, appellant's September 24, 2024, and September 30, 2024 payments were not timely.

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 was not due to willful neglect. (R&TC, § 19132(a)(1).) When FTB imposes a penalty, the law presumes that the penalty was imposed correctly. (*Appeal of Xie*, 2018-OTA-076P.) To overcome this presumption, the taxpayer must provide credible and competent evidence supporting a claim of reasonable cause; otherwise, the penalty cannot be abated. (*Ibid.*)

Illness or other personal difficulties may be considered reasonable cause if the taxpayer presents credible and competent proof that they were continuously prevented from fulfilling tax obligations. (*See Appeal of Head and Feliciano*, 2020-OTA-127P.) When a taxpayer alleges reasonable cause based on incapacity due to illness or the illness of an immediate family member, the duration of the incapacity must approximate that of the tax obligation deadline. (*Appeal of Head and Feliciano*, *supra*.) However, if the difficulties simply caused the taxpayer to sacrifice the timeliness of one aspect of their affairs to pursue other aspects, the taxpayer must bear the consequences of that choice. (*Ibid.*) The taxpayer's selective inability to perform tax obligations, while participating in regular business activities, does not establish reasonable cause. (*Ibid.*) Courts have also held that "the type of illness or debilitation that might create reasonable cause is one that because of severity or timing makes it virtually impossible for the taxpayer to comply—things like emergency hospitalization or other incapacity occurring around tax time." (*In re Carlson*, (7th Cir. 1997) 126 F.3d 915, 923; see also *Stine v. U.S.* (Fed. 2012) 106 Fed.Cl. 586; *Nasir v. Commissioner*, T.C. Memo. 2011-283.)

Here, appellant does not dispute that it failed to make a timely payment for the 2023 tax year. Rather, appellant seeks abatement of the late payment penalty based on reasonable cause. Appellant asserts that it missed the payment deadline due to the illness of its vice president's family member. In support, appellant provides the family member's medical documents and letters from a healthcare provider. However, the documents do not establish circumstances that caused appellant to be continuously prevented from making a timely payment during the relevant period. In fact, appellant concedes that the vice president continued to manage the practice during the period of time in which the officer cared for her family member. Furthermore, appellant does not provide any other evidence of steps taken to make timely payments. Thus, it appears that appellant sacrificed the timeliness of its return to pursue other aspects of its affairs. Based on the foregoing, appellant has not met its burden of proof to establish reasonable cause to abate the late payment penalty.

Issue 2: Whether appellant has established a basis to abate the estimated penalty.

Corporations that are required to pay California franchise tax pursuant to the Corporation Tax Law must make estimated tax payments. (R&TC, §§ 19023, 19025(a).) When the amount of estimated tax exceeds the minimum franchise tax, then the amount is generally paid in specified installments. (R&TC, § 19025(b).) A corporation that underpays its estimated tax is liable for a penalty equal to a specified rate of interest applied to the amount of underpayment.

(R&TC, §§ 19142(a), 19144.) Absent limited exceptions,¹ an estimated tax penalty is properly imposed where the taxpayer's installment payments are less than the amounts due at the end of the installment periods. (*Appeal of Bechtel, Inc.* (78-SBE-052) 1978 WL 3525.) There is no extenuating circumstance, reasonable cause, or lack of willful neglect exception for the estimated tax penalty. (*Appeal of Weaver Equipment Co.* (80-SBE-048) 1980 WL 4976.) There are a few limited statutory exceptions to the estimated tax penalty.

Here, appellant does not dispute FTB's imposition or calculation of the estimated tax penalty of \$71.11. In fact, appellant has not specifically addressed the estimated tax penalty. Rather, appellant makes the same reasonable cause arguments with respect to the late payment penalty and the estimated tax penalty. However, there is no reasonable cause exception to the estimated tax penalty. (*See Appeal of Scanlon*, 2018-OTA-075P.) Accordingly, OTA finds that FTB properly imposed the estimated tax penalty, and appellant is not entitled to abatement of the penalty.

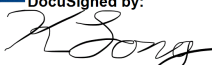
¹ For example, R&TC sections 19142(b), 19147, and 19148 provide for some exceptions to the imposition of the estimated tax penalty. Additionally, although there is no provision allowing for the abatement of the estimated tax penalty based solely on reasonable cause, IRC section 6654(e)(3) provides that FTB may waive the addition to tax if it determines either that: (1) "by reason of casualty, disaster, or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience," or (2) the failure to timely pay the estimated tax payment was due to reasonable cause, and the taxpayer retired after reaching age 62 or became disabled in the taxable year for which the estimated payments were required to be made or in the previous year. Appellant has not alleged that any of the above exceptions apply; therefore, this Opinion will not discuss them further.

HOLDINGS


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

DISPOSITION


FTB's action is sustained.

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Keith T. Long
 Administrative Law Judge

We concur:
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Steven Kim
 Administrative Law Judge

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Natasha Ralston
 Administrative Law Judge

Date Issued: 1/8/2026