

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 250218762
MAPLE VALLEY INVESTMENTS LLC)
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OPINION

Representing the Parties:

For Appellant: Paul Saleh, Representative

For Respondent: Amelia W. Breen, Attorney

For Office of Tax Appeals: Joel Bazzi, Graduate Student Assistant

S. ELSOM, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Maple Valley Investments LLC (appellant) appeals actions by the Franchise Tax Board (respondent) denying appellant’s claim for refund of \$1,739.17 for the 2023 tax year.¹

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals 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 the underpayment of estimated tax penalty (estimated tax penalty).

¹ Appellant’s request for appeal lists an amount at issue of \$1,664.43, which is the sum of the late payment penalty of \$1,345.32 plus the underpayment of estimated tax penalty of \$319.11, which are listed on respondent’s October 16, 2024 Return Information Notice. Respondent denied a late payment penalty of \$1,420.06 and an estimated tax penalty of \$319.11, so OTA treats the amount of appellant’s appeal to be the sum of these penalties, or \$1,739.17.

FACTUAL FINDINGS

1. Appellant is an LLC treated as an S Corporation. Appellant timely filed its 2023 California S Corporation Franchise or Income Tax Return (Return) on September 4, 2024, reporting a total tax of \$15,748, total payments of \$20,800, an overpayment of \$5,052, an overpayment credit towards the 2024 tax year's estimated tax of \$4,410, and penalties and interest of \$642.
2. Appellant made an \$800 payment on April 11, 2023, and attempted to make a \$20,000 estimate payment on March 14, 2024. The second payment was dishonored on March 15, 2024.
3. On October 16, 2024, respondent sent appellant a Return Information Notice, which recalculated total payments to \$800, assessed additional tax of \$15,748, and imposed a late payment penalty of \$1,345.32 and an estimated tax penalty of \$319.11, plus applicable interest. Respondent subsequently increased the late payment penalty to \$1,420.06 based upon the unpaid balance of tax due.
4. On November 20, 2024, appellant remitted a payment of \$17,490.19 in satisfaction of the 2023 tax year account balance due and filed a claim for refund of the penalties due to reasonable cause.
5. Respondent subsequently denied appellant's claim for refund.
6. This timely appeal followed.

DISCUSSION

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

R&TC section 19132(a) imposes a late payment penalty when a taxpayer fails to pay the amount shown as due on a return by the date prescribed for the payment of the tax. Generally, the date prescribed for the payment of tax is the due date of the return, without regard to any extension of time for filing the return. (R&TC, § 19001.) For the 2023 tax year, an LLC treated as an S Corporation is required to file its return on or before the 15th day of the third month following the close of its taxable year. (R&TC, §§ 18633.5(h), 18601(d)(1).)

The late payment penalty may be abated if the taxpayer establishes that the failure to make a timely payment was due to reasonable cause and not willful neglect. (R&TC, § 19132(a)(1).) The failure to timely remit the balance due on a tax liability caused by an oversight does not, by itself, constitute reasonable cause. (*Appeal of Friedman*, 2018-OTA-077P.) Each taxpayer has a non-delegable obligation to pay tax by the due date.

(See *Appeal of Fisher*, 2022-OTA-337P.)² A taxpayer's reliance on an expert cannot serve as a substitute for compliance with an unambiguous statute. (*Ibid.*) The taxpayer bears the burden of proving that an ordinarily intelligent and prudent businessperson would have acted similarly under the circumstances. (*Appeal of Rougeau*, 2021-OTA-335P.)

Appellant does not dispute that the late payment penalty was properly imposed or calculated but instead contends that it had reasonable cause for the late payment of tax. Appellant asserts its tax professional provided appellant's bank information on the extension form incorrectly, causing the \$20,000 extension payment to be dishonored. Appellant further argues that both appellant and its tax preparer were directly impacted by a derecho storm on April 26, 2024, and by Hurricane Beryl on July 5, 2024, each of which prevented appellant from discovering the dishonored payment.

Here, appellant had a non-delegable obligation to pay its tax by the March 15, 2024 due date. (*Appeal of Fisher, supra.*) Appellant's reliance on its tax preparer does not serve as a substitute to comply with an unambiguous statute. (*Ibid.*; R&TC, § 19001). We would expect reasonably prudent taxpayers exercising due care and diligence to monitor their bank account and quickly ascertain whether a scheduled electronic payment from their account to FTB was in fact paid. (*Appeal of Scanlon*, 2018-OTA-075P.) Appellant does not explain or provide any information to prove the extent to which it attempted to review its bank records to verify the payment or correct the payment error between March 15, 2024, when the payment was dishonored, and April 26, 2024, when the first natural disaster occurred. Further, appellant does not provide any information subsequent to this date to prove the extent to which the natural disasters prevented appellant from contacting respondent, reviewing online bank records, or taking any other steps to ensure the timely payment of its tax. Based on the foregoing, appellant has not satisfied its burden of proof to establish reasonable cause.

² *Appeal of Fisher* applies reasonable cause analysis for the late filing penalty, which is substantially the same as the analysis applied to the late payment penalty. Because the inquiry and evidence are the same for both penalties, decisions analyzing reasonable cause for late filing is equally controlling in the determination of reasonable cause for late payment. (*Appeal of Triple Crown Baseball LLC*, 2019-OTA-025P.)

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

An S corporation that is subject to the corporation franchise or income tax must file a declaration of estimated tax and pay the estimated tax each year. (R&TC, §§ 19023, 19025.) An S corporation that underpays its estimated tax is penalized by an addition to tax equal to a specified rate of interest applied to the amount of the underpayment, unless a statutory exception applies.³ (R&TC, §§ 19142, 19144.) There is no reasonable cause exception to the imposition of the underpayment of the estimated tax penalty. (*Appeal of Weaver Equipment Co.* (80-SBE-048) 1980 WL 4976.)

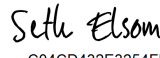
Appellant does not contest the imposition or computation of the estimated tax penalty. Instead, appellant presents the same reasonable cause arguments that it raises with respect to the late payment penalty to abate the estimated tax penalty. However, unlike the late payment penalty, there is no authority to abate the estimated tax penalty based solely on reasonable cause. (*Appeal of Weaver Equipment Co., supra.*)


HOLDINGS

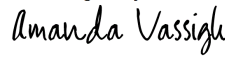
1. Appellant has not established reasonable cause to abate the late payment penalty.
2. Appellant has not established a basis to abate the estimated tax penalty.

DISPOSITION

Respondent's actions denying appellant's claim for refund are sustained.

Signed by:

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Seth Elsom
Hearing Officer

We concur:
Signed by:

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Hans Famularo
Administrative Law Judge

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Amanda Vassigh
Administrative Law Judge

Date Issued: 1/8/2026

³ Several exceptions to imposition of the estimated tax penalty are found in R&TC sections 19142(b), 19147, and 19148, but appellant does not allege, and the evidence does not show, that any of those apply to the facts here.