2026-OTA-263
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **FAMILY TREE SERVICE INC.**	OTA Case No. 241218260

OPINION

Representing the Parties:

For Appellant: Ray Perez, Representative

For Respondent: Vicki M. Leclerc, Program Specialist

H. FAMULARO, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Family Tree Service Inc. (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of $6,592.78 for the 2022 tax year.

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).

ISSUE

Whether appellant has established a legal basis to abate the underpayment of estimated tax (estimated tax) penalty.

FACTUAL FINDINGS

1. Appellant was taxed as an S corporation for income tax purposes during the 2022 tax year.
2. A separate entity called "Family Tree Service, Inc., Retirement Savings Plan Trust," an employee stock ownership plan (ESOP), acquired all of appellant's outstanding shares during the 2022 tax year.
3. On May 16, 2023, appellant filed its Form 100S, California S Corporation Franchise or Income Tax Return, for the 2022 tax year.
4. On its 2022 tax return, appellant reported an S corporation entity-level income tax of $281,744, which appellant subsequently paid.

5. By notice dated May 7, 2024, respondent advised appellant that it had assessed an estimated tax penalty of $6,592.78 for the 2022 tax year.
6. Appellant subsequently paid the estimated tax penalty.
7. On July 16, 2024, appellant sent respondent a claim for refund for the estimated tax penalty for the 2022 tax year.
8. On September 11, 2024, respondent sent appellant a denial letter of appellant's claim for refund.
9. This timely appeal followed.

DISCUSSION

A corporation subject to income tax must pay estimated tax. (R&TC, § 19023.) When the amount of estimated tax exceeds the minimum franchise tax, the amount is generally paid in specified installments. (R&TC, § 19025(b).) A calendar year corporate taxpayer is required to make the following estimated tax payments: first quarter pay 30 percent of the tax due by April 15; second quarter pay 40 percent of the tax due by June 15; and fourth quarter pay 30 percent of the tax due by December 15. (R&TC, § 19025(b).) A 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. (R&TC, §§ 19142, 19144.) Relief from the estimated tax penalty is not available upon a showing of reasonable cause, although limited statutory exceptions to the penalty exist. (R&TC, §§ 19142(b), 19147, 19148; *Appeal of Weaver Equipment Co.* (80-SBE-048) 1980 WL 4976.)

Appellant does not dispute that it failed to make timely estimated tax payments or that respondent did not properly compute the estimated tax penalty for the 2022 tax year. Instead, appellant argues that the estimated tax penalty should be abated for reasonable cause because appellant relied in good faith on erroneous professional tax advice. Appellant asserts that an "ESOP consultant" incorrectly advised appellant that because it became entirely owned by an ESOP during the 2022 tax year, it did not have a federal or California income tax payment obligation for that year. Appellant states that it only became aware it was subject to California income tax when it filed its 2022 tax return.

Appellant did not remit any estimated payments for the 2022 tax year. There is no reasonable cause exception for reasonable reliance in good faith on the advice of a tax professional or other ground upon which the estimated tax penalty might be abated here. (See R&TC, §§ 19142(b), 19147, 19148; *Appeal of Weaver Equipment Co*., *supra*.) Therefore, appellant has not established a legal basis to abate the estimated tax penalty for the 2022 tax year.

HOLDING

Appellant has not established a legal basis to abate the estimated tax penalty.

DISPOSITION

Respondent's action denying appellant's claim for refund is sustained.

Signed by:
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Hans Famularo
Administrative Law Judge

We concur:

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Tommy Leung
Administrative Law Judge

DocuSigned by:
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Keith T. Long
Administrative Law Judge

Date Issued: 3/25/2026