OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 250319098

K. SMITH

OPINION

Representing the Parties:

For Appellant: K. Smith

For Respondent: Kathleen Thaete, Attorney

E. PARKER, Hearing Officer: Pursuant to Revenue and Taxation Code (R&TC) section 19045, K. Smith (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of $10,681 and $1,268.54 of applicable interest for the 2020 tax year.[1]

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).

ISSUE

Whether appellant is entitled to interest abatement.

FACTUAL FINDINGS

1. Appellant timely filed a California tax return for the 2020 tax year.
2. Subsequently, FTB received information from the IRS showing that appellant did not report taxable pension/annuity income, interest income, and dividend income.
3. FTB issued a Notice of Proposed Assessment (NPA) proposing $10,681 in additional tax, plus applicable interest, based on the information FTB received from the IRS.

[1] On appeal, appellant requests that interest be waived; appellant does not contest the proposed additional tax.

4. Appellant protested the NPA. In response, FTB explained to appellant that FTB based its proposed assessment on the information it received from the IRS and FTB had not received information showing that the IRS cancelled or reduced its assessment.
5. FTB issued a Notice of Action affirming the NPA.
6. Appellant timely filed this appeal requesting that FTB abate the accrued interest.

DISCUSSION

If any amount of tax imposed by the Personal Income Tax Law is not paid by the due date, then interest is required to be imposed from the due date until the date the taxes are paid. (R&TC, § 19101(a).) Imposition of interest is mandatory; it is not a penalty, but it is compensation for appellant's use of money after it should have been paid to the state. (*Appeal of Moy*, 2019-OTA-057P.) There is no reasonable cause exception to the imposition of interest, and interest is mandatory except where abatement is authorized under the law. (*Ibid*.)

To obtain relief from interest, appellant must qualify under one of the waiver provisions of R&TC section 19104 (unreasonable error or delay by FTB in the performance of a ministerial or managerial act), 19112 (extreme financial hardship caused by significant disability or other catastrophic circumstance),[2] or 21012 (reasonable reliance on FTB's written advice). (*Appeal of Moy*, *supra*.) On appeal, appellant requests that interest be abated but does not provide any information or basis to establish that a statutory provision for interest abatement applies to the facts of this case. Appellant has not established that she is entitled to interest abatement.

[2] OTA has no authority to review FTB's denial of a request to waive interest under R&TC section 19112. (*Appeal of Moy*, *supra*.)

HOLDING

Appellant is not entitled to interest abatement.

DISPOSITION

FTB's action is sustained.

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Erica Parker
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Erica Parker
Hearing Officer

We concur:

DocuSigned by:
Amanda Vassigh
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Amanda Vassigh
Administrative Law Judge

Signed by:
Veronica I. Long
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Veronica I. Long
Administrative Law Judge

Date Issued: 4/8/2026