2026-OTA-298
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **P. SHARMA AND** **M. SHARMA**	OTA Case No. 240115111

OPINION

Representing the Parties:

For Appellants: Ami Shah, CPA

For Respondent: Brad Coutinho, Assistant Chief Counsel
Nancy Parker, Attorney Supervisor

S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, P. Sharma and M. Sharma (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of $74,006.08, plus interest for the 2021 tax year.

Office of Tax Appeals (OTA) Panel Members Sara A. Hosey, Teresa A. Stanley, and L. Katrine Shelton held a virtual oral hearing for this matter on January 22, 2026. At the conclusion of the hearing, the record was closed, and this matter was submitted for an opinion pursuant to California Code of Regulations, title 18, section 30209(b).

ISSUE

Whether appellants have established reasonable cause to abate the late payment penalty for the 2021 tax year.

FACTUAL FINDINGS

1. Appellants filed a timely 2021 California Income Tax Return on April 15, 2022.
2. FTB processed the return but because the tax due of $1,138,555 was not paid as of the due date of the return, it imposed a late payment penalty of $74,006.08, plus interest.
3. On June 20, 2022, FTB sent appellants a tax balance due notice consisting of the outstanding tax due, a late payment penalty, and interest, which totaled $1,219,063.52. On June 27, 2022, appellants made a partial payment in the amount of $1,145,057.44.

4. FTB sent appellants a tax due notice outlining the remaining balance due.
5. Appellants filed a request for abatement of the late payment penalty, which FTB denied by letter dated February 23, 2023.
6. Appellants subsequently paid the 2021 tax liability in full.
7. Appellants filed this timely appeal.

DISCUSSION

R&TC section 19132 provides that a late payment penalty shall be imposed when a taxpayer fails to pay the amount shown as due on the return on or before the due date of the return. When FTB imposes a penalty, the law presumes that the penalty was imposed correctly. (*Appeal of Xie*, 2018-OTA-076P.) Here, appellants do not dispute that FTB properly imposed or computed the late payment penalty.

The late payment penalty may be abated if the taxpayer shows that the failure to make timely payments of tax was due to reasonable cause and was not due to willful neglect. (R&TC, § 19132(a)(1).) FTB does not assert that willful neglect is present in this case. Therefore, the remaining issue regarding the late payment penalty is whether appellants have demonstrated reasonable cause for their failure to timely pay their required taxes in full. The taxpayer bears the burden of proving that an ordinarily intelligent and prudent businessperson would have acted similarly under the circumstances. (*Appeal of Friedman*, 2018-OTA-077P.) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of Scanlon*, 2018-OTA-075P.) Appellants contend there was reasonable cause for the late payment due to an oversight on the part of their tax preparer.

California follows the reasonable cause standard explained in *United States v. Boyle* (1985) 469 U.S. 241, 250 (*Boyle*) that a taxpayer's reliance on a tax adviser must involve reliance on substantive tax advice and not on simple clerical duties. (*Appeal of Mauritzson*, 2021-OTA-198P.) *Boyle* states, "It requires no special training or effort to ascertain a deadline and make sure that it is met. The failure to make a timely filing of a tax return is not excused by the taxpayer's reliance on an agent, and such reliance is not 'reasonable cause' for a late filing . . . ."[1] (*Id.* at p. 252.) 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*, *supra*.)

In *Appeal of Scanlon*, *supra*, OTA found that a taxpayer who took almost eight months to notice that a tax payment had not been timely paid did not exercise due care and diligence and

[1] Judicial interpretations determining whether reasonable cause existed for failure to file a tax return are persuasive authority for determining whether reasonable cause existed for the failure to pay the tax on time. (*Appeal of Triple Crown Baseball, LLC,* 2019-OTA-025P.)

was not entitled to a reasonable cause abatement of penalties. Furthermore, in the *Appeal of Freidman*, *supra*, OTA found that the taxpayers' failure to check their bank account after the error of not completing their electronic payment of tax, was not sufficient to show reasonable cause. Here, it took appellants over two months to notice and make the late tax payment. The testimony at the hearing was that appellants confirmed the IRS payment was taken out, but that they did not notice the tax due of $1,138,555 for California state taxes were not paid. A reasonably prudent business person exercising ordinary care would have ensured that such a large payment of tax was actually made on time. Appellants have not demonstrated that their actions comport with ordinary business care and prudence and are therefore not entitled to a reasonable cause abatement of the late payment penalty.

Lastly, R&TC section 19132.5 provides for a one-time abatement of certain timeliness penalties but only for individual taxpayers with good tax compliance history for tax years beginning on or after January 1, 2022, which is after the tax year at issue. Further, while the IRS has an administrative program called "First Time Abate," under which it will abate timeliness penalties if a taxpayer has timely filed returns and paid tax for certain past years, neither the California Legislature nor FTB has adopted a comparable penalty abatement program outside of R&TC section 19132.5. (See *Appeal of Auburn Old Town Gallery, LLC*, 2019-OTA-319P.)

HOLDING

Appellants have not established reasonable cause to abate the late payment penalty for the 2021 tax year.

DISPOSITION

FTB's action is sustained in full.

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Sara A Hosey
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Sara A. Hosey
Administrative Law Judge

We concur:

DocuSigned by:
Teresa A Stanley
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Teresa A. Stanley
Administrative Law Judge

Signed by:
L. Katrine Shelton
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L. Katrine Shelton
Administrative Law Judge

Date Issued: 4/10/2026