2026-OTA-333
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **C. HURST**	OTA Case No. 250822895

OPINION

Representing the Parties:

For Appellant: C. Hurst

For Respondent: Leo Cristobal, Attorney

For Office of Tax Appeals: Daniel Kim, Graduate Student Assistant

A. KLETTER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, C. Hurst (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of $2,654 for the 2023 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 FTB properly imposed the late filing penalty.

FACTUAL FINDINGS

1. Appellant hired a professional accountant located in South Carolina to file appellant's 2023 California income tax return (return).
2. On January 27, 2025, FTB received the return, which reported total tax of $10,616, and $1,675 in penalties and interest, for a total amount due of $12,291. On the same day, FTB received appellant's payment of $12,291.
3. FTB processed the return and imposed a late filing penalty of $2,654.
4. On March 20, 2025, FTB received appellant's payment which satisfied the balance due.

5. On April 2, 2025, FTB received appellant's claim for refund, which FTB denied on May 12, 2025.
6. This timely appeal followed.

DISCUSSION

California imposes a penalty for failing to file a return on or before the due date, unless the taxpayer shows that the failure is due to reasonable cause and not willful neglect. (R&TC, § 19131.) When FTB imposes a penalty, the law presumes the penalty was imposed correctly. (*Appeal of Xie*, 2018-OTA-076P.)

Personal income taxpayers filing on a calendar-year basis must generally file their returns by April 15 of the following year. (R&TC, § 18566.) However, taxpayers may file their return on or before the automatic extended due date, which is six months after the original filing due date. (R&TC, § 18567; Cal. Code Regs., tit. 18, § 18567.) If the return is not filed within six months of the original due date, no extension is allowed. (Cal. Code Regs., tit. 18, § 18567(a).)

Internal Revenue Code (IRC) section 7508A provides that when there is a federally-declared disaster, time-sensitive deadlines may be postponed. R&TC section 18572(b) conforms to IRC section 7508A and gives FTB the authority to grant emergency postponements for tax-related acts. (See *Appeal of Bannon*, 2023-OTA-096P.) When applying the IRC for California personal income tax purposes, IRS Treasury Regulations shall be applicable to the extent that they do not conflict with California personal income tax code sections or regulations. (R&TC, § 17024.5(d).) Treasury Regulation section 301.7508A-1(b)(3) provides that a postponement under IRC section 7508A runs concurrently with extensions of time to file and pay. Where the original due date precedes the first day of the postponement period, and the extended due date falls within the postponement period, if an affected taxpayer receives an extension of time to file, filing will be timely on or before the last day of the postponement period. (Treas. Reg. § 301.7508A-1(b)(3)(ii).) In that situation, the taxpayer is eligible for relief from penalties or additions to tax related to the failure to file during the postponement period. (*Ibid*.)

Appellant contends that federal disaster relief provisions related to Hurricane Helene postponed the return due date, the return was timely filed, and the late filing penalty should be abated. IRS Notice SC-2024-08 (IRS Notice) gave affected taxpayers in all South Carolina until May 1, 2025, to file returns that had either an original or extended due date occurring between

September 25, 2024, and May 1, 2025.[1] The IRS Notice provides that the May 1, 2025, filing deadline applies to individuals who had a valid extension to file their 2023 return due to run out on October 15, 2024. California conformed to the IRS Notice.[2]

FTB does not contest that appellant was an affected taxpayer because its records were with the accountant located in South Carolina.[3] Instead, FTB argues that appellant did not have a valid extension because appellant did not timely file on or before the automatic extension due date. (See, Cal. Code Regs., tit. 18, § 18567(a).) While the original due date to file the return was April 15, 2024, prior to the disaster relief provisions, the extended due date of October 15, 2024, fell squarely within the postponement period. When the original due date precedes the first day of the postponement period, and a taxpayer receives an extension of time to file, filing is timely on or before the last day of the postponement period. (Treas. Reg. § 301.7508A-1(b)(3)(ii).) Here, appellant filed the return on January 27, 2025, before May 1, 2025. Therefore, the return was timely, and the late filing penalty should be abated. (See *ibid*.)

[1] See https://www.irs.gov/newsroom/irs-announces-tax-relief-for-victims-of-hurricane-helene-in-south-carolina-various-deadlines-postponed-to-may-1-2025.

[2] See https://www.ftb.ca.gov/file/when-to-file/disasters-outside-california.html.

[3] As applicable here, the IRS Notice provided that taxpayers located outside of South Carolina were entitled to relief where the records necessary to meet a deadline specified in Treasury Regulation section 301.7508A-1(c), which includes filing any income tax return, were in South Carolina. The IRS Notice also provided that tax preparers located in the disaster area who maintained records necessary to meet a filing deadline, could request relief on behalf of client taxpayers located outside of South Carolina.

HOLDING

FTB did not properly impose the late filing penalty and appellant is entitled to a refund of $2,654 plus applicable interest.

DISPOSITION

FTB's action denying appellant's claim for refund is reversed and appellant is entitled to a refund of $2,654, plus applicable interest.

DocuSigned by:
Asaf Kletter
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Asaf Kletter
Administrative Law Judge

We concur:

Signed by:
E407D7E70D3E41C...
Hans Famularo
Administrative Law Judge

Signed by:
Greg Turner
1B8E50433F1D4D5...
Greg Turner
Administrative Law Judge

Date Issued: 4/28/2026