2026-OTA-352
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 241218401

J. KARANFILOGLU

OPINION

Representing the Parties:

For Appellant: J. Karanfiloglu

For Respondent: Amelia Breen, Attorney

S. HOSEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, J. Karanfiloglu (appellant) appeals an action by respondent Franchise Tax Board (FTB) proposing additional tax of $31,327.00, a late penalty of $7,831.75, and applicable interest for the 2021 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).

ISSUES

1. Whether appellant has established error in FTB's proposed assessment of tax.
2. Whether appellant has established reasonable cause to abate the late filing penalty.

FACTUAL FINDINGS

1. Appellant has not filed a 2021 tax return.
2. FTB received information indicating that appellant received wages, dividends, interest, and other income sufficient to trigger a 2021 California tax filing requirement. FTB sent a Request for Tax Return to appellant.
3. Appellant did not respond, and FTB issued appellant a Notice of Proposed Assessment (NPA) estimating appellant's income and proposing tax, a late filing penalty, plus interest.
4. FTB issued a Notice of Action affirming the NPA.

5. This timely appeal followed.

DISCUSSION

Issue 1: Whether appellant has established error in FTB's proposed assessment of tax.

Gross income is defined as all income from whatever source derived, unless specifically excluded. (Internal Revenue Code (IRC), § 61(a); R&TC, § 17071.) California imposes a tax on the entire taxable income of its residents. (R&TC, § 17041(a).) "Every individual taxable under Part 10 (commencing with [R&TC s]ection 17001) shall make a return to the Franchise Tax Board, stating specifically the items of the individual's gross income from all sources and the deductions and credits allowable, if the individual [meets specific filing thresholds]." (R&TC, § 18501(a).)

If a taxpayer fails to file a tax return, FTB may make an estimate of the net income, from any available information, and may propose to assess the amount of tax, interest, and penalties due. (R&TC, § 19087(a).) FTB is given "great latitude" in estimating income when a taxpayer fails to file a return or provide the information necessary to ascertain the taxpayer's tax liability. (*Appeal of Shanahan,* 2024-OTA-039P.)

When FTB makes a proposed assessment of additional tax based on an estimate of income, the FTB's initial burden is to show why its proposed assessment is reasonable and rational. (*Appeal of Bindley*, 2019-OTA-179P.) An assessment based on unreported income is presumed correct when the taxing agency introduces a minimal factual foundation to support the assessment. (*Ibid*.) Once this initial burden is met, the proposed assessment of additional tax is presumed correct, and the taxpayer has the burden of proving it to be wrong. (*Ibid*.) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof, and a taxpayer's failure to produce evidence that is within his or her control gives rise to a presumption that such evidence is unfavorable to his or her case. (*Appeal of Shanahan*, *supra*.)

Here, FTB provides appellant's 2021 Internal Revenue Service Federal Wage and Income Transcript which delineates appellant's 2021 income from wages and other sources, including income reported on forms W-2G, 1099-R, 1099-DIV, and 1099-B. Based on this information, FTB estimated appellant's unreported income and calculated appellant's amount of tax due as a single filer. Reliance on appellant's 2021 Federal Wage and Income Transcript to derive appellant's unreported income is not only reasonable and rational, but also presumptively correct. (*Appeal of Gorin*, 2020-OTA-018P.) Thus, FTB has met its initial burden and appellant must prove the proposed assessment is incorrect.

Appellant argues that he is unable to replicate FTB's estimate of income or tax calculation. Appellant also contends that the calculation FTB provides does not factor in exemptions, credits, or deductions. However, to date, appellant has not filed a 2021 California income tax return or provided facts or evidence to establish an adjustment to the assessment or eligibility for credits or other non-standard deductions. FTB's determination of tax is presumed correct, and the taxpayer bears the burden of proving that it is erroneous. (*Appeal of Head and Feliciano*, 2020-OTA-127P.) Deductions are a matter of legislative grace, and a taxpayer who claims a deduction has the burden of proving they are entitled to it. (*Appeal of Vardell*, 2020-OTA-190P.) To meet that burden, a taxpayer must point to an applicable statute and show by credible evidence that the transactions in question come within its terms. (*Appeal of Jindal*, 2019-OTA-372P.) Appellant has not filed a 2021 California income tax return, provided evidence of accounting for credits, exemptions, or deductions or otherwise shown that FTB's determination of tax is in error. Consequently, appellant has failed to meet the burden of establishing error in FTB's proposed assessment.

Issue 2: Whether appellant has established reasonable cause to abate the late filing penalty.

California imposes a penalty for the failure to file a return on or before the due date, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. (R&TC, § 19131(a).) To establish reasonable cause, a taxpayer must show that the failure to file a timely return occurred despite the exercise of ordinary business care and prudence, or that cause existed as would prompt an ordinarily intelligent and prudent businessperson to have so acted under similar circumstances. (*Appeal of GEF Operating, Inc*., 2020-OTA-057P.) The burden of proof is on the taxpayer to provide credible and competent evidence supporting a claim of reasonable cause. (*Appeal of Xie*, 2018-OTA-076P.) Ignorance of the law does not establish reasonable cause, and unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of GEF Operating, Inc*., *supra*.)

Appellant does not dispute that he failed to file a timely return for the 2021 tax year. Rather, appellant argues that FTB did not properly estimate his income. However, the record establishes that appellant received taxable income in 2021, prompting a filing requirement. Appellant has not provided any arguments or evidence to prove that his failure to timely file his 2021 tax return by the due date was due to reasonable cause. Therefore, appellant has not established reasonable cause to abate the late filing penalty.

HOLDINGS

1. Appellant has not established error in FTB's proposed assessment of tax.
2. Appellant has not established reasonable cause to abate the late filing penalty.

DISPOSITION

FTB's action is sustained.

DocuSigned by:
Sara A Hosey
6D3EE4A0CA514E7

Sara A. Hosey
Administrative Law Judge

We concur:

Signed by:
Greg Turner
1B8F50433F1D4D5...

Greg Turner
Administrative Law Judge

Signed by:
L. Katrine Shelton
0A4B16EC081643E

L. Katrine Shelton
Administrative Law Judge

Date Issued: 5/11/2026