

In the Matter of the Appeal of:) OTA Case No. 241218423
D. JOHNSON AND)
P. SOWERS)
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¹ This amount consists of a late payment penalty of \$2,584.38 and an underpayment of estimated tax penalty of \$739, plus interest.

FACTUAL FINDINGS

1. On September 7, 2023, appellants scheduled an electronic fund transfer (EFT) in the amount of \$74,000 for the 2023 tax year using FTB's EFT WebPay system. That same day, appellants received an automated Confirmation WebPay Scheduled email from FTB.
2. Appellants scheduled the payment request to occur on September 11, 2023. However, on that date, FTB rejected the payment request due to appellants' entry of an invalid bank account number on the WebPay system.
3. On March 6, 2024, FTB received appellants' 2023 California Resident Income Tax Return (return), reporting total tax of \$109,829, California income tax withholding of \$10,211, estimated tax and extension payments of \$130,545, withholding (Form 592-B and/or Form 593) of \$33,933, and overpaid tax of \$64,860. Appellants requested \$35,000 of the overpayment to be applied as a 2024 estimated tax payment, and the remaining \$29,860 be refunded. Appellants did not make any payment with the return.
4. FTB processed the return and on June 10, 2024, issued appellants a Notice of Tax Return Change – Revised Balance, which informed appellants of: (1) adjustments to the amount of the reported estimated tax and extension payments; (2) adjustments to the amount of estimated tax applied to 2024; and (3) the imposition of a \$2,584.38 late payment penalty, \$739 estimated tax penalty, and interest. The revised balance due was \$46,891.29.
5. On June 14, 2024, appellants made a payment of the full amount of the balance owed via FTB's EFT WebPay system.
6. On July 10, 2024, appellants filed a claim for refund for the penalties and interest.
7. On August 21, 2024, FTB issued appellants an Income Tax Due Notice showing a balance of \$35.55, which appellants paid on August 26, 2024.
8. On September 30, 2024, FTB denied the claim for refund.
9. This timely appeal followed.

DISCUSSIONIssue 1: Whether appellants have established reasonable cause to abate the late payment penalty.

R&TC section 19132(a) provides that a late payment penalty shall be imposed when a taxpayer fails to pay the amount shown as due on the return by the date prescribed for the payment of the tax. Generally, the date prescribed for the payment of the tax is the due date of the return (without regard to extensions of time for filing). (R&TC, § 19001.)

When FTB imposes a late payment penalty, the penalty is presumed to have been imposed correctly. (*Appeal of Xie*, 2018-OTA-076P.) The late payment penalty may be abated if a taxpayer shows that the failure to make a timely payment of tax was due to reasonable cause and not due to willful neglect. (R&TC, § 19132(a).) To establish reasonable cause to abate the penalty, a taxpayer must show that the failure to timely pay occurred despite the exercise of ordinary business care and prudence. (*Appeal of Moren*, 2019-OTA-176P.) The taxpayer bears the burden of proving that an ordinarily intelligent and prudent businessperson would have acted similarly under the circumstances. (*Ibid.*) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of Magidow* (82- SBE- 274) 1982 WL 11930.)

Here, FTB imposed a late payment penalty of \$2,584.38 because the due date for payment of the tax was April 15, 2024 under R&TC section 19001, but appellants satisfied the tax liability on June 14, 2024. Appellants do not dispute FTB's computations or that they untimely paid tax. Rather, appellants assert that reasonable cause exists for the late payment because they made the payment request in advance of the April 15, 2024 deadline.

Appellants assert that their bank account had sufficient funds and they assumed that the payment request would be processed based on receipt of FTB's confirmation email. FTB provides internal records indicating that appellants entered the wrong bank account information. And the confirmation email did not confirm the payment was completed, but advised that appellants should check with their bank to verify that payment was successfully made to FTB. Furthermore, lack of notice from FTB of a failed payment does not negate appellants' duty of prudence and due care to verify that their scheduled payments were successful. (*Appeal of Scanlon*, 2018-OTA-075P.)

Appellants testified that they had numerous large transactions in their bank account so they did not notice the lack of payment to FTB. In addition, appellants state that they do not check their bank account every month. The failure to timely file or pay tax caused by an

oversight does not, by itself, constitute reasonable cause. (*Appeal of Friedman*, 2018- OTA-077P.) In this case, had appellants reviewed their bank account, they would have discovered that the payment request was rejected on September 11, 2023, due to invalid account information. Reasonably prudent taxpayers are expected to exercise due care and diligence to monitor their bank account and quickly ascertain whether a scheduled electronic payment from their account to FTB was in fact paid. (*Ibid.*) Furthermore, a reasonably prudent taxpayer would notice that a \$74,000 payment, a significant amount, did not process. Appellants provide no evidence of having attempted to confirm payment was successfully made to FTB during the seven months following the failed payment request prior to the April 15, 2024 tax deadline. Accordingly, this panel finds no reasonable cause to abate the late payment penalty.

Issue 2: Whether appellants have established a basis to abate the estimated tax penalty.

California conforms to Internal Revenue Code (IRC) section 6654 and imposes an estimated tax penalty for the failure to timely make estimated income tax payments. (R&TC, § 19136(a); IRC, § 6654.) The estimated tax penalty is similar to an interest charge in that it is calculated by applying the applicable interest rate to the underpayment of estimated tax. (See IRC, § 6654(b)(2).) Appellants do not dispute the computation of the estimated tax penalty. Rather, they request that the penalty be abated.

There is no general reasonable cause exception to the estimated tax penalty. (*Appeal of Scanlon, supra.*) However, IRC section 6654(e)(3) provides limited exceptions for FTB to abate the estimated tax penalty: (1) if, by reason of casualty, disaster, or other unusual circumstances, imposing the penalty would be against equity and good conscience; or (2) if the late payment were due to reasonable cause and not willful neglect, but only for individuals who retired after attaining the age of 62 in the taxable year or who became disabled in the taxable year. (IRC, § 6654(e)(3)(A)-(B).) The taxpayer bears the burden of proving that abatement of the penalty is warranted. (*Appeal of Saltzman*, 2019-OTA-070P.)

Appellants do not argue, and the evidence does not show, that they meet the requirements of the exceptions provided in IRC section 6654(e)(3). Instead, appellants provide the same arguments for the estimated tax penalty that they do for the late payment penalty. However, as indicated above, there is no general reasonable cause exception to imposition of the estimated tax penalty. (*Appeal of Scanlon, supra.*) Therefore, this panel need not discuss appellants' reasonable cause argument as it relates to this penalty, and the estimated tax penalty should not be abated.

Issue 3: Whether appellants have established a basis to abate interest.

The imposition of interest is mandatory. (R&TC, § 19101(a).) Interest is charged from the due date of the tax payment to the date the tax is paid. (R&TC, §19101(a).) Interest is not a penalty, but is compensation for the taxpayer'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 can only be abated in certain limited situations when authorized by law. (*Ibid.*) To obtain relief from interest, a taxpayer must qualify under the abatement provisions of R&TC sections 19104, 19112, or 21012. (*Ibid.*)

Appellants provide the same reasonable cause arguments for the late payment penalty for the abatement of interest. Under R&TC section 19104, FTB is authorized to abate or refund interest if there has been an unreasonable error or delay in the performance of a ministerial or managerial act by an officer or employee of FTB. Here, appellants have not alleged, and the record does not reflect, any such errors or delays. Further, OTA does not have jurisdiction to review FTB's interest abatement determination under R&TC section 19112; thus, it does not require further discussion. (*Appeal of Moy, supra.*) Finally, the relief of interest under R&TC section 21012 is not relevant here, because FTB did not provide appellants with any written advice. Appellants have not shown that they qualify for waiver or abatement of interest under the provisions of R&TC sections 19104 or 21012. Consequently, appellants have not established a basis for interest abatement.

HOLDINGS

1. Appellants have not established reasonable cause to abate the late payment penalty.
2. Appellants have not established a basis to abate the estimated tax penalty.
3. Appellants have not established a basis to abate interest.

DISPOSITION

FTB's action is sustained.

Signed by:



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Josh Lambert
Administrative Law Judge

We concur:

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Tommy Leung
Administrative Law Judge

Signed by:



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L. Katrine Shelton
Administrative Law Judge

Date Issued: 6/30/2026