

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 250118517
GRANO, LLC)
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OPINION

Representing the Parties:

For Appellant: Jae Sun Song, CPA

For Respondent: Vivian Ho, Attorney

J. LAMBERT, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Grano, LLC (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund for the 2023 tax year.

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 OTA has jurisdiction to consider appellant's appeal of FTB's denial of its claim for refund.

FACTUAL FINDINGS

1. Appellant timely filed a 2023 Limited Liability Company California Return of Income (Form 568) reporting a balance due of \$6,000, which appellant paid.
2. Thereafter, FTB imposed an underpayment of estimated LLC fee penalty of \$600 pursuant to R&TC section 17942(a).
3. Appellant did not pay the penalty and interest due.¹
4. On May 31, 2024, appellant filed a claim for refund of the penalty.
5. FTB inadvertently denied appellant's claim for refund.

¹ As of the latest information in the record, which is FTB's payment history printout dated March 5, 2025, appellant has a balance due of \$639.65.

6. This timely appeal followed.

DISCUSSION

Appellant contends that it is owed a refund because it mistakenly believed the payment due date was extended as a result of severe storms in California.

OTA has jurisdiction to hear and decide an appeal that has been timely submitted to OTA pursuant to OTA's Rules for Tax Appeals if FTB denies any portion of a "perfected" claim for a refund of tax, penalties, fees, or interest. (Cal. Code Regs., tit. 18, § 30103(a)(3).) To perfect a claim for refund, a claimant must make full payment of tax. (R&TC, § 19322.1 [a claim for refund that is made before full payment shall not be deemed filed until full payment is made]; FTB Notice 2003-5 [an "informal" claim for refund will be "perfected" and deemed filed on the date that full payment of tax is made].)

The record does not show that appellant has paid the balance due for the 2023 tax year. While FTB treated appellant's claim as a perfected claim for refund, appellant has not paid the \$600 penalty or remaining interest.² Thus, appellant has not made full payment of tax to perfect its refund claim. Accordingly, without a perfected claim for refund, OTA does not have jurisdiction to hear and decide appellant's appeal of FTB's denial of the claim for refund.

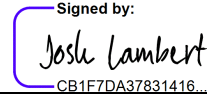
² FTB therefore erred in issuing the claim for refund denial because it should not have acted administratively by denying the claim for refund until appellant had made full payment of the amount due. Although FTB made the mistake of acting administratively on the claim for refund before full payment was made, OTA is aware of no legal authority (and the parties have pointed to none) which permits OTA, or FTB, to treat FTB's error as a waiver of the full payment requirement.

HOLDING

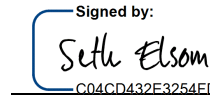
OTA does not have jurisdiction to consider appellant's appeal of FTB's denial of its claim for refund.

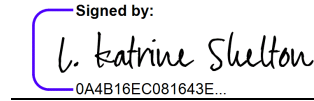
DISPOSITION

FTB's action is sustained.

Signed by:

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Josh Lambert
Administrative Law Judge

We concur:

Signed by:

C04CD432E3254ED...
Seth Elsom
Hearing Officer

Signed by:

0A4B16EC081643E...
L. Katrine Shelton
Administrative Law Judge

Date Issued: 4/15/2026