

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 250218732
J. REDMON AND	)	
E. REDMON	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellants:	Peter Stoll, CPA Nicholas Truso, CPA
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For Respondent:	Paige Chang, Attorney
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K. SHELTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Redmon and E. Redmon (appellants) appeal an action by the Franchise Tax Board (respondent) denying appellants' claim for refund of \$7,286.04¹ for the 2023 tax year.

Appellants 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 appellants have established reasonable cause to abate the mandatory electronic payment penalty (Penalty) under R&TC section 19011.5.

FACTUAL FINDINGS

1. Appellants filed a joint Form 540 California Resident Income Tax Return for the 2023 tax year on extension on which they claimed an overpayment based on tax withholdings,

¹ Appellants' Reasonable Cause – Individual and Fiduciary Claim for Refund (Claim) requests a refund of \$7,131.65, which appears to be the amount of the penalty of \$7,000 asserted under R&TC section 19011.5 (Penalty), plus interest. In their appeal to the Office of Tax Appeals (OTA), appellants' Claim is for \$7,286. It is not clear whether appellants paid the amount in excess of the \$7,000 Penalty. Nevertheless, OTA shall focus on appellants' Claim for refund of the Penalty, which was \$7,000.

- payments of estimated tax, and other payments. Appellants paid taxes of \$700,000 on April 15, 2024, by check (Payment).
2. Respondent issued appellant J. Redmon a State Income Tax Balance Due Notice stating that he was required, but failed, to electronically remit payment of his tax liabilities for the 2023 tax year, and that he was liable for a Penalty of \$7,009.38, which was equal to 1 percent of the Payment made by other means, which was by check.
 3. Appellant J. Redmon did not pay the balance due for the Penalty; therefore, respondent issued appellant J. Redmon an Income Tax Due Notice and then a collection notice. Appellants subsequently made a payment of \$7,131.65 and then filed a Reasonable Cause – Individual and Fiduciary Claim for Refund (Claim) of \$7,131.65 for the 2023 tax year. On the Claim, appellants stated that “taxpayer has not made an estimated tax or extension payment in excess of \$20,000 for the previous tax year and taxpayer’s tax liability did not exceed \$80,000 for the previous tax year.” Respondent denied appellants’ Claim.
 4. On the same day that they filed the Claim, appellants filed a Form FTB 4107 Mandatory e-Pay Requirement – Waiver Request. Respondent issued appellants a written waiver dated January 22, 2025.
 5. In the 2016 tax year, appellants made an estimated payment of over \$20,000.
 6. Appellants timely filed their appeal.

DISCUSSION

As of January 1, 2009, certain individuals have been required to submit their payments electronically, or be subject to the Penalty. (R&TC, § 19011.5.) Individual taxpayers must make payments electronically if they make an estimated tax or extension payment of more than \$20,000 on or after January 1, 2009, or if they file an original tax return with a tax liability over \$80,000 for any tax year beginning on or after that date. (R&TC, § 19011.5(a).) The amount of the Penalty for failing to pay electronically is equal to 1 percent of the amount paid. (R&TC, § 19011.5(c).)

An individual who has become subject to the electronic payment requirement must continue to make all future payments electronically, unless the taxpayer makes an election out of the requirement or requests and obtains a waiver of the electronic filing requirement. A taxpayer may elect out of the electronic payment requirement if the taxpayer was not required to do so for the preceding taxable year, and the taxpayer completes a specific form. (R&TC,

§ 19011.5(b).) Alternatively, a taxpayer can request a waiver of the electronic payment requirement. (R&TC, § 19011.5(d).)

Appellants requested, and received, a written waiver of the electronic payment requirement that was dated January 22, 2025, under R&TC section 19011.5(d). The waiver from respondent states, in relevant part, that “[a]t this time, you are not required to send your tax payments to us electronically.” The waiver does not state that it is retroactive; therefore, the waiver should not be treated as retroactive, and it does not impact the Penalty for the 2023 tax year.

In their Claim, appellants indicated that they have “not made an estimated tax or extension payment in excess of \$20,000 for the previous tax year and taxpayer’s tax liability did not exceed \$80,000 for the previous tax year.” Respondent provided documentation indicating that, for the 2016 tax year, appellants made an estimated payment of over \$20,000; therefore, appellants have been subject to the mandatory electronic payment requirement since the 2016 tax year. (R&TC, § 19011.5(a).) Thus, respondent properly asserted the Penalty.

A taxpayer who is required to remit payment electronically but pays by another means must pay the Penalty unless it is shown that the failure to pay electronically was for reasonable cause and not the result of willful neglect. (R&TC, § 19011.5(c).) R&TC section 19011.5 does not define “reasonable cause.” However, it is appropriate to look at the law on reasonable cause in cases involving other penalties, such as the late-filing penalty, for guidance in a case where the penalty under R&TC section 19011.5 is imposed. (*Appeal of Porreca*, 2018-OTA-095P (*Porreca*).) For example, the taxpayer must show the failure to act as required under the statute occurred despite the exercise of ordinary business care and prudence, and the taxpayer bears the burden of proving reasonable cause to excuse the Penalty. (See *Porreca*, *supra*.) Unsupported assertions are not sufficient to satisfy a taxpayer’s burden of proof. (*Porreca*, *supra*.) In addition, ignorance of the law is not reasonable cause for failure to comply with statutory requirements. (*Appeal of Diebold, Inc.* (83-SBE-002) 1983 WL 15389.) Taxpayers do not exercise ordinary business care and prudence when they fail to acquaint themselves with the requirements of California tax law. (*Ibid.*)

In their appeal to OTA, appellants argue that they had reasonable cause for failing to make the Payment electronically for the following reasons: they were unaware of the mandatory electronic payment requirement that was imposed in 2017; they made a good faith effort to timely submit Payment for the 2023 tax year; they were unable to access the electronic payment system and, thus, paid by mail; they actually overpaid for the 2023 tax year; and their 2023 tax year liability was unusually large due to certain unanticipated changes. Appellants’

lack of awareness of the legal requirement to pay electronically is not reasonable cause. (*Appeal of Diebold, Inc., supra.*) Appellants did, in fact, timely submit their Payment, and their timeliness is not at issue here. Appellants have not provided any support for their assertion that they were unable to access the electronic payment system; therefore, this unsupported argument is not persuasive. Appellants' overpayment for the 2023 tax year and their unusually large liability have no bearing on whether appellants had reasonable cause. (*Porreca, supra.*) As noted above, the waiver granted under R&TC section 19011.5(d) does not apply to the 2023 tax year at issue.

Appellants also request a one-time abatement of the Penalty. R&TC section 19132.5 provides for a one-time abatement of a "timeliness penalty" for individual taxpayers with a good tax compliance history. A timeliness penalty is expressly defined as "a penalty imposed under [R&TC] [s]ection 19131 or 19132 for one taxable year with respect to a return filed by an individual for that taxable year." (R&TC, § 19132.5(c).) Accordingly, the one-time abatement does not apply to the Penalty asserted under R&TC section 19011.5.

HOLDING

Appellants have not established reasonable cause to abate the Penalty under R&TC section 19011.5.

DISPOSITION

Respondent's denial of appellants' Claim is sustained.

Signed by:

L. Katrine Shelton

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L. Katrine Shelton
Administrative Law Judge

We concur:

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Sara A. Hosey

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Sara A. Hosey
Administrative Law Judge

DocuSigned by:

Kenneth Gast

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Kenneth Gast
Administrative Law Judge

Date Issued: 7/2/2026