

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 250923214
LAPCEVIC PROPERTIES LLC)
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OPINION

Representing the Parties:

For Appellant: Robert Lapcevic, Representative

For Respondent: Rachel Glass, Graduate Legal Assistant

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Lapcevic Properties LLC (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$600, plus associated interest, for the taxable year ending on December 31, 2024.

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 the penalty for the underpayment of the estimated limited liability company (LLC) fee was correctly imposed and if so, whether there is a basis to abate the penalty.

FACTUAL FINDINGS

1. Appellant was an LLC engaged in leasing real estate whose taxable year ran from January 1, 2024, to December 31, 2024.
2. On February 15, 2024, appellant made an \$800 payment. The payment "Type" was identified in FTB's records as an "LLCTAX PMT."
3. On March 7, 2025, appellant filed its LLC Return of Income (Form 568) reporting an LLC fee of \$6,000 and LLC tax of \$800, for a total liability of \$6,800. The return reported appellant's payment of \$800 and a \$6,000 balance due. Appellant included a payment of \$6,000 with its return.

4. On or around April 18, 2025, FTB issued appellant an LLC Notice of Balance Due imposing a penalty for the underpayment of the estimated LLC fee in the amount of \$600. Appellant paid the balance due and filed a claim for refund.
5. FTB denied appellant's claim for refund. This timely appeal follows.

DISCUSSION

R&TC section 17941 provides that an LLC doing business in California shall pay an \$800 annual LLC tax, which is due on or before the 15th day of the fourth month of the taxable year. In addition to the annual LLC tax, R&TC section 17942 imposes an LLC fee based on total California source income of an LLC that is doing business in California.¹ The LLC fee is required to be estimated and paid on or before the 15th day of the sixth month of the taxable year. (R&TC, § 17942(d)(1).) R&TC section 17942(d)(2) provides for a penalty of 10 percent of the amount of the underpayment, which is equal to the difference between the total amount of the LLC fee for the taxable year less the timely estimated LLC fee payment(s). The statute further provides for a "safe harbor" in which no penalty will apply if the amount of the timely paid estimated LLC fee is equal to or greater than the LLC fee for the taxpayer's preceding tax year. (R&TC, § 17942(d)(2).)

Appellant contends that the underpayment of the estimated LLC fee penalty was improperly imposed. Appellant asserts it had income from the sale of real estate that occurred on July 6, 2024, after the June 15, 2024 payment deadline, and that this additional income caused its LLC fee to increase after the due date of the estimated LLC fee.

FTB asserts that it properly imposed the underpayment of the estimated LLC fee penalty because appellant's estimated LLC fee was due on June 15, 2024, and appellant failed to timely make any timely estimated LLC fee payment.

In this appeal, appellant's taxable year is the same as the calendar year and thus, appellant's \$800 annual LLC tax was due on April 15, 2024, and its estimated LLC fee was due on June 15, 2024. Appellant does not dispute that it made a single payment of \$800 prior to these dates. FTB has provided records showing that the \$800 payment "Type" was "LLCTAX PMT," and appellant's return reports an \$800 annual LLC tax. This tends to support that the payment was a payment of appellant's annual LLC tax, not an estimated LLC fee payment. In addition, the amount of the payment does not support that it was intended to satisfy appellant's estimated LLC fee. The amount of appellant's estimated LLC fee should have been either

¹ Notably, the law does not provide a reasonable cause exception to this penalty. (R&TC, § 17942; *Appeal of Summit Hosting LLC*, 2021-OTA-216P.)

\$6,000, or, to qualify for the safe harbor, the amount of appellant's LLC fee for the preceding taxable year. Appellant does not assert, and has provided no evidence showing that the \$800 payment was equal to or greater than the LLC fee for the preceding taxable year. Based on this, OTA finds that the \$800 payment was a payment of the \$800 annual LLC tax.

To the extent that appellant makes a reasonable-cause type argument that it is inequitable to require appellant to pay an estimate based on an unascertainable amount of future income, there is no reasonable cause exception to the imposition of the underpayment of the estimated LLC fee penalty. (R&TC, § 17942; *Appeal of Summit Hosting LLC*, *supra*.) Further, the statute provides a safe harbor for taxpayers in such situations, which allows taxpayers to pay the estimated LLC fee based on their prior year's LLC fee to avoid imposition of the penalty. Accordingly, the underpayment of the estimated LLC fee penalty was properly imposed and there is no basis for abating the penalty.

HOLDING

The penalty for the underpayment of the estimated LLC fee was correctly imposed and there is no basis to abate the penalty

DISPOSITION

FTB's denial of appellant's claim for refund is sustained.

Signed by:



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Veronica I. Long
Administrative Law Judge

We concur:

Signed by:



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Hans Famularo
Administrative Law Judge

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Seth Elsom
Hearing Officer

Date Issued: 6/18/2026