

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 240415924
NATURAL HEALING CENTER, LLC	)	
	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellant:	Matthew J. McCullough, EA John Pellitteri, CPA
For Respondent:	Andrea Watkins, Attorney Cynthia D. Kent, Attorney Supervisor

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Natural Healing Center, LLC (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant's claims for refund of \$27,204.40, \$101,888.46, and \$60,593.64 for the 2018, 2019, and 2020 taxable years (taxable years at issue), respectively.

Office of Tax Appeals (OTA) Panel Members Teresa A. Stanley, Veronica I. Long, and Andrew Wong held a virtual oral hearing for this matter on November 19, 2025. At the conclusion of the hearing, the record was closed, and this matter was submitted for an opinion pursuant to California Code of Regulations, title 18, section 30209(b).

ISSUES

1. Has appellant established reasonable cause to abate the late-payment penalties for 2018, 2019, or 2020?
2. Has appellant established a basis to waive the penalties for underpayment of estimated tax (estimated tax penalties) for 2018, 2019, or 2020?

FACTUAL FINDINGS

1. Sometime in 2017 or 2018, appellant, a California Limited Liability Company (LLC) filed a Form 8832, Entity Classification Election, requesting to be taxed as a corporation effective January 1, 2017. The IRS accepted the election effective April 12, 2018.

2. In taxable year 2018, appellant had a single member and reported all income, deductions, credits, and tax on the sole member's individual tax return as it would if appellant were a single member LLC that is disregarded for tax purposes.
3. For taxable years 2019, and 2020, appellant incorrectly filed California Limited Liability Company Return of Income (Forms 568) instead of California Corporation Franchise or Income Tax Return (Forms 100).
4. On September 28, 2020, the IRS rejected appellant's request for an extension to file federal tax Form 1065 (the federal equivalent to California Form 568) for the 2019 taxable year because appellant had previously elected to be taxed as a corporation. The IRS accepted appellant's request as a request for an extension to file a federal Form 1120 (the federal equivalent to California Form 100).
5. On or about March 29, 2022, appellant filed 2018, 2019, and 2020 California Form 100 tax returns, reporting corporate tax of \$107,667, \$538,830, and \$452,568, respectively. FTB deemed the returns filed on the date appellant filed incorrect Forms 568 for 2019 and 2020, and the date appellant's single member filed their individual tax return for 2018. FTB deemed the 2018 Form 100 filed on October 15, 2019, the 2019 Form 100 filed on September 15, 2020, and the 2020 Form 100 filed on September 15, 2021. Thus, FTB did not impose a late-filing penalty for any of the taxable years at issue.
6. On May 13, 2022, appellant paid \$140,264.41 to satisfy its 2018 tax liability, \$703,126.74 to satisfy its 2019 tax liability, and \$514,370.27 to satisfy its 2020 tax liability.
7. FTB imposed late-payment penalties of \$24,220.61 for 2018, \$82,449 for 2019, and \$50,597.47 for 2020. FTB imposed estimated tax penalties of \$2,983.79 for 2018, \$19,439.46 for 2019, and \$9,996.17 for 2020.
8. Appellant requested abatement of penalties¹ for the taxable years at issue, based on reasonable cause.
9. On January 18, 2024, FTB denied appellant's requests for abatement of the 2018 and 2020 late-payment penalties.² On February 20, 2024, FTB denied appellant's request for abatement of the 2019 late-payment and estimated tax penalties.

¹ In its claims for refund filed with FTB and on appeal, appellant incorrectly refers to the estimated tax penalty as a late-filing penalty.

² Although FTB did not specifically deny appellant's request to abate the estimated tax penalties for 2018 and 2020, OTA accepts appellant's claims for refund based on a deemed denial by FTB. (See R&TC, § 19331.)

10. This timely appeal followed.

DISCUSSION

Issue 1: Has appellant established reasonable cause to abate the late-payment penalties for 2018, 2019, or 2020?

R&TC section 19132 imposes a late-payment penalty when a taxpayer fails to pay the amount shown as tax 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.) The late-payment penalty has two parts. The first part is 5 percent of the unpaid tax. (R&TC, § 19132(a)(2)(A).) The second part is a penalty of 0.5 percent per month, or portion of a month (not to exceed 40 months), calculated on the outstanding balance. (R&TC, § 19132(a)(2)(B).) Appellant did not make its corporate tax payments on time so FTB properly imposed the late-payment penalty for the taxable years at issue. When FTB imposes a penalty, the law presumes that the penalty was imposed correctly, and the taxpayer bears the burden of proof to establish otherwise. (*Appeal of Xie*, 2018-OTA-076P.)

The late-payment penalty may be abated when a taxpayer shows that the failure to make a timely payment of tax was due to reasonable cause and was not due to willful neglect. (R&TC, § 19132(a)(1).) To establish reasonable cause for the late payment of tax, a taxpayer must show that failure to make a timely payment of the proper amount of tax 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.*)

Appellant asserts it relied on a prior accountant who prepared appellant's federal and state partnership tax returns even though appellant had filed an election sometime in 2017 or 2018 to be taxed as a corporation, which the IRS accepted effective April 1, 2018. (See Treas. Reg., § 301.7701-3; R&TC § 23038 [requiring entities to use the same classification for both federal and state tax purposes].) Appellant also contends the tax was not underreported or unreported; it just filed the wrong return. Appellant asserts that the penalties seem very large for a filing that was submitted but was prepared on the wrong form; appellant analogizes its situation to filing a tax return on the wrong color form then being penalized for that.

With respect to appellant's argument that it relied on its prior accountant to file the proper tax forms, FTB did not impose a late-filing penalty in this case. Instead, the penalties at

issue are based on appellant's late payment of tax. Appellant's asserted reliance on its preparer to file the correct form does not excuse its late payment of tax.

Appellant's argument that the State of California was not harmed because the member(s) filed individual tax returns reporting appellant's income is also unavailing. Appellant, having elected to be taxed as a corporation, owed substantial corporate tax for the taxable years at issue, which was not paid until May 13, 2022. FTB argues that the member(s) filed tax returns for the years at issue but did not pay the tax liabilities such that when the member(s) filed amended returns, they did not receive refunds but rather FTB reduced the outstanding tax owed. Even if appellant were correct that California had the money and suffered no harm, OTA has no authority to offset one taxpayer's liability and penalties against any other taxpayer.

Lastly, the fact that the penalties "seem very large for a filing that . . . wasn't done on the right form," is not reasonable cause for appellant's failure to pay taxes on time. The statute expressly states how the late-filing penalty is calculated (see R&TC, § 19132(a)(2)), and appellant does not dispute that FTB correctly calculated the late-filing penalty pursuant to law. Therefore, appellant has not established reasonable cause to abate the late-filing penalties for the taxable years at issue.

Issue 2: Has appellant established a basis to waive the estimated tax penalties for 2018, 2019, or 2020?

A corporation subject to the franchise tax must pay estimated tax. (R&TC, § 19023.) If the amount of estimated tax does not exceed the minimum franchise tax, the entire amount of the estimated tax is due on or before the fifteenth day of the fourth month of the taxable year. (R&TC, § 19025(a).) When the amount of estimated tax exceeds the minimum franchise tax, the corporation is generally required to be paid in specified installments. (R&TC, § 19025(b).) A corporation that underpays its estimated tax is penalized by an addition to tax equal to a specified rate of interest applied to the amount of the underpayment. (R&TC, §§ 19142, 19144.) Relief from the estimated tax penalty is not available upon a showing of reasonable cause, although limited statutory exceptions to the penalty, not at issue here, exist. (R&TC, §§ 19142(b), 19147, 19148; *Appeal of Weaver Equipment Co.* (80-SBE-048) 1980 WL 4976.)

Appellant does not dispute that it failed to make timely estimated tax payments or argue that FTB did not properly compute the estimated tax penalties. Appellant did not remit any estimated payments during the taxable years at issue. As noted, appellant, having elected to be taxed as a corporation, was required to make estimated tax payments during the years at issue.

Since appellant did not make any estimated tax payments, FTB properly imposed the estimated tax penalties for each of the taxable years at issue.

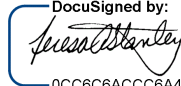
Appellant makes the same arguments with respect to the estimated tax penalties as it did for the late-payment penalties. However, those are reasonable cause arguments, which are not a basis for relief of the estimated tax penalty. (See *Appeal of Weaver Equipment Co.*, *supra*.) Therefore, appellant has not established a basis to abate the estimated tax penalty for any of the taxable years at issue.

HOLDINGS

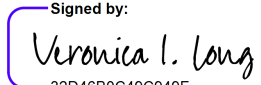
1. Appellant has not established reasonable cause to abate the late-payment penalties for 2018, 2019, or 2020.
2. Appellant has not established a basis to waive the estimated tax penalties for 2018, 2019, or 2020.

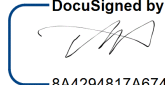
DISPOSITION

OTA sustains FTB's actions denying appellant's claims for refund.

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Teresa A. Stanley
Administrative Law Judge

We concur:

Signed by:

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Veronica I. Long
Administrative Law Judge

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Andrew Wong
Administrative Law Judge

Date Issued: 2/4/2026