

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	}	OTA Case No. 241017708
STRONG AGRONOMY MANAGEMENT, INC.		

OPINION

Representing the Parties:

For Appellant:	Darren Story, Representative
For Respondent:	Tristen Thalhuber, Attorney Brad Coutinho, Assistant Chief Counsel

T. LEUNG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Strong Agronomy Management, Inc. (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of \$15,583.34 for the 2020 taxable year.

Office of Tax Appeals (OTA) Panel Members Seth Elsom, Suzanne B. Brown, and Tommy Leung held an electronic hearing for this matter on January 15, 2026. At the conclusion of the hearing and after the submission of post-hearing briefs by the parties, the record was closed, and this matter was submitted for an opinion pursuant to California Code of Regulations, title 18, section 30209(b).

ISSUE

Whether there was reasonable cause for appellant to pay its 2020 taxes late.

FACTUAL FINDINGS

1. Appellant filed its 2020 California corporation tax return by the extended due date, but (except for an \$800 estimated tax remittance) paid its taxes more than two years late.
2. Consequently, respondent imposed a late payment penalty in the amount of \$15,583.34; appellant does not dispute the computation of the penalty.

3. After fully paying its 2020 California income taxes in May 2024, appellant filed a refund claim for the late payment penalty on reasonable cause grounds, which respondent denied.
4. During the appeal, the parties were requested to submit post-hearing briefs so the panel could determine whether appellant could qualify for the financial hardship exception.
5. Appellant submitted payroll and rental expense documentation, as well as bank statements, for this purpose. Respondent concluded that appellant had sufficient funds in its bank account to timely pay its 2020 taxes.

DISCUSSION

A late payment penalty is imposed when a taxpayer fails to pay the amount shown on the return by the date prescribed for the payment of tax. (R&TC, § 19132(a).) Generally, the date prescribed for the payment of the tax is the due date of the return, without regard to any extension of time for filing the return. (R&TC, § 19001.) For a corporate taxpayer, such as appellant, the due date of its return, without regard to any extension, and the date prescribed for payment of the tax, is the 15th day of the fourth month following the close of its taxable year. (R&TC, § 18601(a).)

The late payment penalty may be abated where the failure to make a timely payment was due to reasonable cause and not willful neglect. (R&TC, § 19132(a)(1).) To establish reasonable cause, the taxpayer must show that the failure to timely pay occurred despite the exercise of ordinary business care and prudence. (*Appeal of Scanlon*, 2018-OTA-075P.) Unsupported assertions are insufficient to meet this burden. (*Ibid.*)

Furthermore, the law provides that undue financial hardship can constitute reasonable cause. Financial hardship is defined as not merely a “general hardship,” but rather “more than an inconvenience to the taxpayer” at the time when its 2020 taxes were due. (See Treas. Reg. §§ 1.6161-1(b), 301.6651-1(c)(1).) A taxpayer’s inability “to pay the tax in spite of the exercise of ordinary business care and prudence in providing for payment of his tax liability” will be determined based on a consideration of “all the facts and circumstances of the taxpayer’s financial situation, including the amount and nature of the taxpayer’s expenditures in light of the income (or other amounts) he could, at the time of such expenditures, reasonably expect to receive prior to the date prescribed for the payment of the tax.” (Treas. Reg. § 301.6651-1(c)(1).)

In this regard, appellant points out that it owed “\$1 million in wages, \$250,000 to contract laborers, and almost \$300,000 in rents.” Appellant claims that, “Failure to pay for any of these

liabilities, and others, would have resulted in the Company going out of business.” However, appellant does not explain why it was able to remain in business despite the fact that these liabilities already substantially exceeded its April 2021 cash position of \$280,660.22, even without considering the tax liability. Appellant’s tax liability was not substantial in comparison to these liabilities, and appellant did in fact remain in business and recovered despite reporting a loss in excess of \$800,000.

A taxpayer who “made reasonable efforts to conserve sufficient assets in marketable form to satisfy his tax liability and nevertheless was unable to pay all or a portion of the tax when it became due ”will be deemed to have exercised ordinary business care and prudence. (*Ibid.*) “It must appear that substantial financial loss, for example, loss due to the sale of property at a sacrifice price, will result to the taxpayer from making payment on the due date. ”(Treas. Reg. § 1.6161-1(b); see *Synergy Staffing, Inc. v. IRS* (9th Cir. 2003) 323 F.3d 1157 (*Synergy Staffing*); *Van Camp & Bennion v. U.S.* (9th Cir. 2001) 251 F.3d 862; *Appeal of Pacheco*, 2018-OTA-066P.)

In this case, while appellant made a strong attempt to show reasonable cause due to financial hardship, it was not sufficient to satisfy appellant’s burden of proof. Appellant needed to demonstrate more than evidence of financial trouble alone, and simply providing check payment amounts or a list of creditors existing during the relevant time period is insufficient to establish reasonable cause. (See *Synergy Staffing, supra*; *TRC, Inc. v. U.S.* (D.C. Nev. 2011) 107 AFTR 2d 2011-386, 390 [2011 WL 4309010] (*TRC, Inc.*)). The record shows that appellant had sufficient funds in its bank account to pay its tax liability on time. Appellant indicated in its post-hearing brief that a prudent business person would prioritize its operational debt obligations over taxes. Apparently, from the record, it appears that appellant decided to prioritize paying off its labor and rental liabilities before paying its tax obligations, without any showing that it attempted at least making partial payment(s) to respondent or seeking an extension of time to pay its other obligations. Such prioritization does not satisfy undue financial hardship as it is not analogous to the often-repeated example of selling one’s property at below market value to satisfy one’s taxes. (See Treas. Reg., § 1.6161-1(b); *TRC, Inc, supra.*) If the taxpayer’s difficulties simply cause it to sacrifice the timeliness of one aspect of its affairs to pursue other aspects, the taxpayer must bear the consequences of that choice. (*Appeal of Triple Crown Baseball LLC*, 2019-OTA-25P.)

HOLDING

Appellant has not proven that it had reasonable cause for paying its 2020 taxes late.

DISPOSITION

Respondent's action is sustained.

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Tommy Leung

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Tommy Leung
Administrative Law Judge

We concur:

Signed by:

Seth Elsom

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Seth Elsom
Hearing Officer

Signed by:

Suzanne B. Brown

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Suzanne B. Brown
Administrative Law Judge

Date Issued: 7/9/2026