

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 250923177
D. QUINT	)	
	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellant:	Marisa Friedrich, Representative
For Respondent:	David C. Cortez, Associate Governmental Program Analyst
For Office of Tax Appeals:	Andres Rios, Graduate Student Assistant

J. LAMBERT, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, D. Quint (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$29,350 for the 2024 tax year.

Appellant waived the right to an oral hearing; therefore, the matter was submitted to the Office of Tax Appeals on the written record pursuant to California Code of Regulations, title 18, section 30209(a).

ISSUE

Whether appellant has demonstrated reasonable cause to abate the mandatory electronic payment penalty (e-pay penalty) for the 2024 tax year.

FACTUAL FINDINGS

1. On April 15, 2024, appellant remitted to FTB an estimated tax payment of \$155,000 for the 2023 tax year.
2. In response, FTB issued a Mandatory E-Pay Notice to appellant on May 10, 2024, informing appellant that all future payments to FTB must be paid electronically and that the e-pay penalty would be imposed if appellant failed to do so.

3. On October 15, 2024, appellant remitted to FTB a tax payment by check and included a 2023 tax payment voucher, which contained the following statement: "CAUTION: you may be required to pay electronically. See instructions."
4. On November 12, 2024, FTB sent a State Income Tax Balance Due Notice to appellant imposing an e-pay penalty of \$987.45, which appellant paid on January 3, 2025. FTB's payment ledger reflects that the \$987.45 penalty was for the 2023 tax year. This penalty is not at issue in this appeal.
5. On April 15, 2025, appellant remitted a tax payment of \$2,935,000 by check for the 2024 tax year using a 2024 tax payment voucher. The voucher contained the following statement: "CAUTION: you may be required to pay electronically. See instructions."
6. In response, on May 12, 2025, FTB sent appellant a State Income Tax Balance Due Notice, which assessed a 2024 e-pay penalty of \$29,350, plus interest of \$45.06, for a total of \$29,395.06. Appellant remitted payment in full on May 30, 2025.
7. Appellant filed a claim for refund of \$29,395.06 for the 2024 tax year, which FTB denied.
8. This timely appeal followed.¹

DISCUSSION

R&TC section 19011.5(a) requires individuals to submit their payments electronically (e-pay) if they make an estimated tax or extension payment in excess of \$20,000 beginning on or after January 1, 2009, or if they file an original tax return with a total tax liability greater than \$80,000 for a tax year beginning on or after January 1, 2009. Individuals who have become subject to the e-pay requirement must continue to make all future payments electronically, unless they either meet the requirements of R&TC section 19011.5(b) and make an election to discontinue e-pay, or they request a waiver of the e-pay requirement pursuant to R&TC section 19011.5(d). R&TC section 19011.5(c) imposes the 1 percent e-pay penalty on a taxpayer who does not comply with the e-pay requirement unless the taxpayer shows that the failure to make the electronic payment was the result of reasonable cause and was not due to willful neglect.

To establish reasonable cause for the e-pay penalty, the taxpayer must show that the failure to electronically pay occurred despite the exercise of ordinary business care and prudence, or that cause existed as would prompt an ordinary intelligent and prudent

¹ Appellant's appeal letter states that the amount at issue is \$29,350. This is also the amount on the claim for refund denial letter issued by FTB. The difference between the \$29,350 and \$29,395.06 amounts is interest of \$45.06.

businessperson to have so acted under similar circumstances. (*Appeal of Porreca*, 2018-OTA-095P.) The taxpayer bears the burden of proving reasonable cause. (*Ibid.*)

Here, appellant does not dispute the imposition or computation of the e-pay penalty. Instead, appellant contends that he reasonably relied on his tax professional's instructions to remit payment by check. Appellant also asserts that he was not aware that he was subject to the mandatory e-pay requirement.

To establish reasonable cause based on reliance on a tax professional, a taxpayer must show that it reasonably relied on a tax professional for substantive tax advice as to whether a tax liability exists. (*Appeal of Summit Hosting LLC*, 2021-OTA-216P.) Unlike substantive tax advice, no special training or effort is required to ascertain and meet a deadline, and a taxpayer's reliance on a tax professional cannot serve as a substitute for compliance with an unambiguous statute. (*U.S. v. Boyle* (1985) 469 U.S. 241, 251-252.)

Here, appellant asserts only that he relied on his tax professional's instructions regarding the manner of remitting payment. However, appellant does not contend, and the evidence does not indicate, that appellant relied on a professional's advice regarding a *substantive* matter of tax law as to whether a liability existed. Additionally, R&TC section 19011.5 is an unambiguous statute that clearly defines when a taxpayer must make payments electronically, and R&TC section 19011.5(f) specifies what "electronically remit" means for the purposes of making a payment electronically. Therefore, appellant's reliance on a tax professional cannot be a substitute for compliance with an unambiguous statute.

Appellant's assertion that he was unaware of the e-pay requirement is also unavailing. Contrary to appellant's assertion, the record indicates that before FTB imposed the e-pay penalty at issue, it notified appellant on two separate occasions that he was subject to the mandatory e-pay requirement. The first notice sent in May 2024 informed appellant that he was subject to the e-pay requirement, that all future payments were to be paid electronically, and that failure to comply would result in a penalty. FTB sent a second notice in November 2024 after appellant failed to remit a prior payment electronically, and informed appellant in clear language, "[y]ou are required to electronically remit payment to the FTB," and imposed an e-pay penalty. The 2023 and 2024 payment vouchers contained an explicit caution that warned appellant he may be required to submit payment electronically. Given the multiple occasions of notice, an ordinarily intelligent and prudent businessperson would have taken steps to ensure that future payments were made in compliance with the statute. However, even if FTB had not provided notice, ignorance of the law is not reasonable cause for failure to comply with statutory requirements. (*Appeal of Porreca, supra.*) Taxpayers do not exercise ordinary business care

and prudence when they fail to acquaint themselves with the requirements of California tax law. (*Ibid.*) Therefore, appellant has not established that his failure to submit his tax payment electronically was due to reasonable cause and not willful neglect.

HOLDING

Appellant has not demonstrated reasonable cause for the abatement of the mandatory e-pay penalty for the 2024 tax year.

DISPOSITION

FTB's action is sustained.

Signed by:

Josh Lambert

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Josh Lambert
Administrative Law Judge

We concur:

Signed by:

Natasha Ralston

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Natasha Ralston
Administrative Law Judge

Signed by:

Suzanne B. Brown

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Suzanne B. Brown
Administrative Law Judge

Date Issued: 8/12/2026