

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:	)	OTA Case No. 260224372
JMP ENTERTAINMENT LLC	)	
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OPINION

Representing the Parties:

For Appellant:	Jason Paul, CEO
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For Respondent:	David C. Cortez, Analyst
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C. AKIN, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, JMP Entertainment LLC (appellant) appeals actions by respondent Franchise Tax Board (FTB) denying appellant's claims for refund of: \$200, plus applicable interest, for the 2020 tax year; \$190, plus applicable interest, for the 2022 tax year; and \$124, plus applicable interest, for the 2023 tax year.

Appellant elected to have this appeal determined pursuant to the procedures of the Small Case Program. Those procedures require the assignment of a single panel member. (Cal. Code Regs., tit. 18, § 30209.05(b).) 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).

ISSUES¹

1. Whether appellant has established reasonable cause to abate the late-payment penalty for the 2020, 2022, and 2023 tax years.
2. Whether appellant has established a basis for abating interest for the 2020, 2022, and 2023 tax years.

¹ Appellant clarifies in its reply brief that it is seeking penalty relief and interest abatement only and is not seeking a refund of the \$800 annual tax paid for each of the tax years at issue.

FACTUAL FINDINGS

1. Appellant filed its Articles of Organization with the California Secretary of State (SOS) on February 12, 2020.
2. Appellant untimely filed its 2020 FTB Form 568, Limited Liability Company Return of Income (Return) on April 3, 2025. It untimely filed its 2022 and 2023 Returns on February 5, 2025.
3. On each of these Returns, appellant reported only the \$800 annual Limited Liability Company (LLC) tax.
4. FTB imposed interest and late-payment penalties of \$200, \$190, and \$124 for the 2020, 2022, and 2023 tax years, respectively.²
5. Appellant paid the balance due for each of these tax years as follows: \$1,251.52 for the 2020 tax year on July 29, 2025; \$500 and \$660.02 for the 2022 tax year on March 19, 2025, and July 29, 2025, respectively; and \$1,038.42 for the 2023 tax year on July 29, 2025.
6. On August 15, 2025, appellant filed claims for refund seeking abatement of the late-filing penalty and interest for each of these tax years.
7. FTB denied appellant's claims for refund and this timely appeal followed.

DISCUSSION

Issue 1: Whether appellant has established reasonable cause to abate the late-payment penalty for the 2020, 2022, and 2023 tax years.

R&TC section 19132(a)(1)(A) imposes a late-payment penalty when a taxpayer fails to pay the amount shown as due on the return by the date prescribed for the payment. The annual LLC tax is due and payable on or before the 15th day of the fourth month of the taxable year. (R&TC, § 17941(c).) Here, appellant's \$800 annual LLC tax was originally due on April 15, 2020, for the 2020 tax year, April 15, 2022, for the 2022 tax year, and April 15, 2023, for the 2023 tax year.

However, due to the COVID-19 pandemic, the due date for appellant's payment of the annual LLC tax for the 2020 tax year was postponed to July 15, 2020. (*Appeal of Nguyen*, 2025-OTA-333P.) In addition, due to California's severe winter storms in 2023, the due date for

² Although appellant's Returns for the 2020, 2022, and 2023 were filed untimely, FTB did not impose a late-filing penalty pursuant to R&TC section 19131. Instead, FTB imposed a late-payment penalty pursuant to R&TC section 19132 for each of these tax years.

appellant's payment of the annual LLC tax for the 2023 tax year was postponed to November 16, 2023. (*Appeal of Pomrehn*, 2025-OTA-269P.) There was no emergency postponement for the 2022 tax year, and appellant's 2022 annual LLC tax remained due on April 15, 2022.

Appellant did not pay the 2020 and 2023 annual LLC tax until July 29, 2025, and paid \$500 of the 2022 annual LLC tax on March 19, 2025, and the remaining \$300 on July 29, 2025. Because these payments were made after the above discussed payment deadlines, FTB properly imposed the late-payment penalty for each of these tax years.³

The late-payment penalty may be abated if the taxpayer can show that the failure to make a timely payment of tax was due to reasonable cause and not due to willful neglect. To establish reasonable cause for a late payment of tax, a taxpayer must show that its failure to make a timely payment of the proper amount of tax occurred despite the exercise of ordinary business care and prudence. (*Appeal of Summit Hosting LLC*, 2021-OTA-216P.)

Appellant's only argument on appeal is that the *late filing* of its Returns was due to the COVID-19 pandemic. Appellant contends that during this period normal business operations were significantly affected, including limited access to records and delays in obtaining necessary tax information. Appellant contends that these circumstances were beyond its control, that it exercised ordinary business care and prudence and acted in good faith, and that once the COVID-related disruptions were resolved and the necessary information became available, it promptly had the Returns filed.

However, the issue in this appeal is the late *payment* of the \$800 annual LLC tax, not the late *filing* of appellant's Returns. While appellant's Returns were filed late, FTB did not impose the late-filing penalty, and instead imposed the late-payment penalty. Appellant does not explain why it was unable to timely pay the \$800 annual LLC tax for each of the tax years at issue. While appellant contends that it had limited access to records and tax information, the \$800 LLC tax is imposed for the privilege of doing business in California or if the LLC's articles of organization have been accepted by the SOS and a certificate of cancelation of the articles of organization has not been filed with the SOS. (R&TC, §§ 17041(a), (b)(1).) The annual LLC tax

³ The late-payment penalty consists of 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 of the remaining unpaid tax per month, or portion of a month (not to exceed 40 months). (R&TC, § 19132(a)(2)(B).) The penalty for each year at issue was computed as follows. For 2020: \$800 x 5 percent equals \$40, plus \$800 x 0.5 percent x 40 months, equals \$160, for a total of \$200 (\$40 + \$160). For 2022: \$800 x 5 percent, equals \$40, plus \$800 x 0.5 percent x 36 months, equals \$144, plus \$300 x 0.05 percent x 4 months, equals \$6, for a total of \$190 (\$40 + \$144 + \$6). For 2023: \$800 x 5 percent, equals \$40, plus \$800 x 0.5 percent x 21 months, equals \$84, for a total of \$124 (\$40 + \$84).

is set at the amount specified in R&TC section 23153(d), which is \$800. (R&TC, § 17941(a), 23153(d)(1).) The annual LLC tax amount is set by statute; it is not computed based on appellant's taxable income. Appellant's explanation fails to explain why this fixed amount (\$800) could not be paid timely for each of the tax years at issue. While appellant states that it had limited access to records and delays in obtaining tax information, it is unclear what information was needed in order for it to make a timely payment of the \$800 annual LLC tax for each of the tax years at issue. Appellant contends that it exercised ordinary business care and prudence. However, it does not explain what steps it took (if any) to timely remit payment of its \$800 annual LLC tax for each year. To the extent appellant was unaware of the \$800 annual LLC tax, appellant's ignorance of the law is not reasonable cause for the failure to comply with statutory requirements. (*Appeal of Cremel and Koeppel*, 2021-OTA-222P.)

Issue 2: Whether appellant has established a basis for abating interest for the 2020, 2022, and 2023 tax years.

Interest must be assessed from the date a tax payment is due through the date that it is paid. (R&TC, § 19101.) Imposition of interest is mandatory; it is not a penalty but is compensation for appellant's use of money after it should have been paid to the state. (*Appeal of Moy*, 2019-OTA-057P.) There is no reasonable cause exception to the imposition of interest. (*Ibid.*) To obtain relief from interest, a taxpayer must qualify under the statutory waiver provisions of R&TC sections 19104 (unreasonable error or delay in the performance of a ministerial or managerial act by FTB), 19112 (extreme financial hardship), or 21012 (written advice provided by FTB). (*Ibid.*)

Appellant does not assert an unreasonable error or delay by FTB, extreme financial hardship, or that it was provided with written advice by FTB. Therefore, the statutory waiver provisions do not apply.⁴ Instead, appellant makes the same reasonable cause-type arguments as it did with respect to the late-payment penalty. However, there is no reasonable cause exception to the imposition of interest. (*Appeal of Moy, supra.*) Therefore, appellant has not established a basis to abate interest.

⁴ Additionally, OTA does not have jurisdiction to review FTB's denial of interest abatement based on a claim of extreme financial hardship. (*Appeal of Moy, supra.*)

HOLDINGS

1. Appellant has not established reasonable cause to abate the late-payment penalty for the 2020, 2022, and 2023 tax years.
2. Appellant has not established a basis for abating interest for the 2020, 2022, and 2023 tax years.

DISPOSITION

FTB's actions denying appellant's claims for refund are affirmed.

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Cheryl L. Akin
Administrative Law Judge

Date Issued: 7/28/2026