

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 251023461
NAVID JAVADI DMD INC.	)	
	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellant:	Jonathan Miller, CPA
For Respondent:	Shah H. Khan, Program Specialist Topher Tuttle, Attorney Supervisor

S. KIM, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Navid Javadi DMD Inc. (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of \$1,696.05 for the 2024 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).)

Office of Tax Appeals (OTA) Administrative Law Judge Steven Kim held a virtual oral hearing for this matter on July 16, 2026. At the conclusion of the oral hearing, the record was closed, and this matter was submitted on the oral hearing record pursuant to California Code of Regulations, title 18, section 30209(b).

ISSUE

Whether appellant has established reasonable cause to abate the late payment penalty.

FACTUAL FINDINGS

1. Appellant, an S corporation, filed its California S Corporation Franchise or Income tax return (Form 100S) for tax year 2024 on May 9, 2024. On its return, appellant reported total tax of \$72,093 and total payments of \$72,093. Appellant remitted total tax payments of \$46,000 for tax year 2024.

2. FTB accepted the return as filed. Because appellant had only remitted total tax payments of \$46,000 by March 15, 2025, the payment due date, there was an underpayment of \$26,093. Thus, FTB imposed a late payment penalty of \$1,696.05 and an estimated tax penalty of \$514.64, plus accrued interest.
3. Appellant subsequently made a payment of \$28,823.45, which satisfied the total amount due.
4. Appellant filed a claim for refund for the late payment penalty and the estimated tax penalty.
5. In separate Claims for Refund Denied letters, FTB denied the claim for refund for the late payment penalty and the claim for refund for the estimated tax penalty.
6. Appellant timely filed this appeal with respect to FTB's denial of its claim for refund for the late payment penalty.¹

DISCUSSION

R&TC section 19132 provides that a late payment penalty shall be imposed when a taxpayer fails to pay the amount shown as due on the return on or before the due date of the return. When FTB imposes a penalty, the law presumes that the penalty was imposed correctly. (*Appeal of Xie*, 2018-OTA-076P.) The late payment penalty may be abated if the taxpayer shows that the failure to make timely payments 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 demonstrate that the failure to make a timely payment of the proper amount of tax occurred despite the exercise of ordinary business care and prudence. (*Appeal of Triple Crown Baseball LLC*, 2019-OTA-025P.) The reason for missing the deadline must be such that an ordinarily intelligent and prudent businessperson would have acted similarly under the same circumstances. (*Ibid.*) Unsupported assertions are not sufficient to satisfy a taxpayer's burden of proof. (*Appeal of Scanlon*, 2018-OTA-075P.)

Here, appellant does not dispute that it paid its tax liability late and that FTB properly computed and imposed the late payment penalty. Instead, appellant argues that the late payment penalty should be abated due to reasonable cause because it relied on its accountant

¹ Appellant does not dispute the imposition and calculation of the estimated tax penalty and appellant does not appeal FTB's denial of its claim for refund for the estimated tax penalty. This Opinion therefore will not discuss the estimated tax penalty further.

to determine the proper amount of tax and when the tax should be paid. Appellant contends that its accountant failed to advise appellant to make a timely payment.

It is well settled that reliance on a tax return preparer generally does not constitute reasonable cause. (See *U.S. v. Boyle* (1985) 469 U.S. 241, 252.) As a general principle, taxpayers have a non-delegable duty to ensure that a timely payment is made. (*Baccei v. U.S.* (9th Cir. 2011) 632 F.3d 1140, 1148-1149.)² This means that a taxpayer “cannot rely on its employee or agent to escape responsibility for the nonperformance of nondelegable tax duties.” (*Id.* at p. 1148, citing *Conklin Bros. of Santa Rosa, Inc. v. U.S.* (9th Cir. 1993) 986 F.2d 315, 319.) Although reasonable cause may exist if a taxpayer reasonably relies on the advice of an accountant or attorney with respect to substantive matters of tax law, where a late payment is attributable to a straightforward computation not involving any legal interpretation, a taxpayer may not “hide behind an ‘expert’ for the failure to properly determine the tax that was due.” (*Appeal of Berolzheimer* (86-SBE-172) 1986 WL 22860; see also *Appeal of Summit Hosting LLC*, 2021-OTA-216P.) Moreover, the failure to timely pay tax caused by an error or oversight does not, by itself, constitute reasonable cause. (*Appeal of Friedman*, 2018-OTA-077P.) Although appellant may have relied on its accountant to make a timely payment, and the accountant may have made an error in regard to the payment, such reasons do not constitute reasonable cause for the late payment. Accordingly, abatement of the late payment penalty is not warranted.

² Because the relevant language of R&TC section 19132 pertaining to the reasonable cause exception is patterned after Internal Revenue Code section 6651, the federal courts' interpretation of the reasonable cause standard is persuasive authority in determining the proper construction of the California statute. (*Andrews v. Franchise Tax Bd.* (1969) 275 Cal.App.2d 653, 658; *Rihn v. Franchise Tax Bd.* (1955) 131 Cal.App.2d 356, 360.)

HOLDING

Appellant has not established reasonable cause to abate the late payment penalty.

DISPOSITION

FTB's action denying appellant's claim for refund is sustained.

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Steven Kim
Administrative Law Judge

Date Issued: 8/5/2026