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OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **A. SOLTANABADI AND** **L. MOOSAZADEH**	)	OTA Case No. 241218271

OPINION

Representing the Parties:

For Appellants: Fahim Farivar, Attorney

For Respondent: Tristen Thalhuber, Attorney

For Office of Tax Appeals: Tom Hudson, Attorney

S. KIM, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19045, A. Soltanabadi and L. Moosazadeh (appellants) appeal an action by respondent Franchise Tax Board (FTB) proposing additional tax of $65,606 and an accuracy-related penalty of $13,121.20, plus applicable interest, for the 2015 tax year.[1]

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

ISSUES

1. Whether OTA has jurisdiction to determine whether FTB's proposed assessment has been or should have been discharged in bankruptcy.
2. Whether appellants have established error in FTB's proposed assessment, which is based on a final federal determination.
3. Whether appellants are entitled to interest abatement.

FACTUAL FINDINGS

1. Appellants timely filed a joint California Resident Income Tax Return for the 2015 tax year, reporting federal adjusted gross income (AGI) of negative $1,431,982, California

[1] FTB agrees to abate the accuracy-related penalty of $13,121.20.

additions of $2,000, California AGI of negative $1,429,982, zero taxable income, and zero tax due. After claiming a California income tax withholding credit of $38, appellants reported an overpayment of $38. FTB processed the return, accepted it as filed, and intercepted and sent $38 to the Employment Development Department for money owed.

2. FTB subsequently received information indicating that the IRS audited appellants' federal income tax return for the 2015 tax year and made various adjustments. The IRS added unreported income of $620,000, disallowed claimed Schedule E losses of $1,547,807, assessed additional federal tax, and imposed a federal accuracy-related penalty. Appellants did not notify FTB of the federal adjustments.
3. Based on the federal assessment, FTB issued appellants a Notice of Proposed Assessment (NPA) for the 2015 tax year on June 14, 2021, which increased appellants' reported taxable income by $2,165,807, consisting of other income of $620,000 and disallowed claimed Schedule E losses of $1,545,807. The NPA proposed additional tax of $65,606 and an accuracy-related penalty of $13,121.20, plus applicable interest.
4. On August 2, 2021, appellants protested the NPA and requested that FTB stay collection proceedings pending the outcome of their dispute of the federal assessment with the IRS.
5. On August 13, 2021, FTB issued appellants a Protest Acknowledgement notice.
6. FTB obtained appellants' 2015 IRS Account Transcript dated October 26, 2023, which shows no change to the federal assessment. The transcript records "[b]ankruptcy or other legal action filed" on August 30, 2021, and "[r]emoved bankruptcy or other legal action" on February 24, 2023.
7. On October 31, 2023, FTB issued appellants a position letter stating that, based on information received from the IRS, there was no revision to the federal assessment.
8. On December 25, 2023, appellants informed FTB that they were currently engaged in an audit reconsideration process with the IRS.
9. On September 10, 2024, FTB again issued appellants a position letter stating that, based on information received from the IRS, there was no revision to the federal assessment. FTB also requested that appellants reply within 30 days, providing information showing any changes the IRS made to the federal assessment.
10. On October 22, 2024, appellants submitted to FTB a letter stating that they successfully completed bankruptcy proceedings and that their "tax liabilities for 2015" were discharged in bankruptcy on July 29, 2024. Appellants also provided an Order of

Discharge-Chapter 7 from the U.S. Bankruptcy Court dated July 29, 2024, which states that appellant Soltanabadi was granted a discharge under 11 U.S.C. § 727.[2]

11. On November 6, 2024, FTB issued appellants a Notice of Action (NOA) affirming the NPA based on its determination that appellants failed to adequately respond to the September 10, 2024 position letter.
12. Appellants timely filed this appeal on December 6, 2024.
13. On appeal, FTB provides a copy of appellants' 2015 IRS Account Transcript dated December 23, 2025, which shows no change to the federal assessment. The transcript indicates there was a "Write-off of balance due" of $361,139.24 on October 7, 2024.

DISCUSSION

Issue 1: Whether OTA has jurisdiction to determine whether FTB's proposed assessment has been or should have been discharged in bankruptcy.

Appellants argue that appellants' 2015 tax liabilities were discharged by the Order of Discharge issued by the U.S. Bankruptcy Court, and that FTB's collection attempts violate the Order of Discharge. Thus, appellants argue that FTB's proposed assessment has been or should have been discharged in bankruptcy.

However, OTA does not have jurisdiction to determine whether a tax liability has been or should have been discharged in bankruptcy under the United States Bankruptcy Code. (Cal. Code Regs., tit. 18, § 30104(k); see *Appeal of Savage*, 2020-OTA-328P; see also *Appeal of Smith* (81-SBE-145) 1981 WL 11870.) Accordingly, OTA does not further address this issue.

Issue 2: Whether appellants have established error in FTB's proposed assessment, which is based on a final federal determination.

R&TC section 18622(a) provides that a taxpayer shall either concede the accuracy of a federal determination or state how it is erroneous. If the IRS makes a change or correction to "any item required to be shown on a federal tax return, including any gross income, deduction, penalty, credit, or tax for any year," the taxpayer must report the federal change to respondent within six months after the date it becomes final. (R&TC, § 18622(a).) A deficiency assessment based on a federal audit report is presumptively correct, and the taxpayer bears the burden of proving that the determination is erroneous. (*Appeal of Gorin*, 2020-OTA-018P.) Unsupported assertions are insufficient to satisfy a taxpayer's burden of proof with respect to an assessment

[2] The order makes no explicit reference to appellants' state or federal tax liability for the 2015 tax year, but it lists "debts for most taxes" as an example of "some debts [that] are not discharged."

based on a federal action. (*Ibid.*) A taxpayer's failure to produce evidence that is within the taxpayer's control gives rise to a presumption that such evidence, if provided, would be unfavorable to the taxpayer's case. (*Appeal of Morosky*, 2019-OTA-312P.)

Here, FTB properly assessed additional tax based on a federal assessment, in which the IRS added unreported income and disallowed claimed Schedule E losses. Appellants do not directly address any specific disagreements with the IRS audit adjustments, nor do they provide evidence to show that they did not earn the unreported income or were allowed to claim the Schedule E losses. Although appellants dispute the federal determination with the IRS, there is no evidence that the IRS reduced or revised its determination as of December 23, 2025, the date of the most recent IRS Account Transcript.[3] Accordingly, appellants have failed to demonstrate error in the federal determination or FTB's proposed assessment, which is based on the final federal determination.

Issue 3: Whether appellants are entitled to interest abatement.

The imposition of interest is mandatory, and interest cannot be abated except where authorized by law. (R&TC, § 19101(a); *Appeal of Balch*, 2018-OTA-159P.) There is no reasonable cause exception to the imposition of interest. (*Appeal of Gorin, supra*.) To obtain interest abatement, a taxpayer must qualify under R&TC sections 19104, 19112, or 21012.[4]

As applicable here, interest may be abated in accordance with R&TC section 19104, to the extent that the interest is attributable to an unreasonable error or delay by FTB in performing a ministerial or managerial act. An error or delay shall be taken into account only if no significant aspect of the error or delay is attributable to the taxpayer and after FTB contacted the taxpayer in writing with respect to the deficiency or payment. (R&TC, § 19104(b)(1).) However, OTA's jurisdiction for interest abatement is limited to a review of FTB's determination for an abuse of discretion. (R&TC, § 19104(b)(2)(B).) To show an abuse of discretion, the taxpayer must establish that, in refusing to abate interest, FTB exercised its discretion arbitrarily, capriciously, or without sound basis in fact or law. (*Appeal of Gorin*, *supra*.) Interest

[3] Although the IRS may have written off appellants' balance due as a result of the Order of Discharge, that evidence does not show that the IRS revised its audit adjustments.

[4] R&TC section 19112 allows FTB to waive interest when FTB determines that an individual has demonstrated an inability to pay interest solely because of extreme financial hardship caused by significant disability or other catastrophic circumstances. OTA has no legal authority to review or overturn FTB's denial of a request to waive interest under R&TC section 19112. (*Appeal of Moy*, 2019-OTA-057P.) R&TC section 21012 allows interest abatement when the taxpayer reasonably relied on FTB's written advice. Appellant does not argue, nor does the evidence show, that R&TC sections 19112 or 21012 apply in this appeal.

abatement provisions are not intended to be routinely used to avoid the payment of interest, thus abatement should be ordered only where failure to abate interest would be widely perceived as grossly unfair. (*Ibid*.) The mere passage of time does not establish error or delay in performing a managerial act. (*Ibid*.)

Here, appellants argue that interest should be abated due to FTB's alleged unreasonable delays, because more than three years elapsed between FTB's issuance of the NPA in June 2021, and its issuance of the NOA in November 2024. Appellants assert that FTB took no meaningful action on their protest and allowed interest to accrue.

However, appellants significantly contributed to any delay by asking FTB on August 2, 2021, December 25, 2023, and January 3, 2024, to delay any action pending resolution of their dispute with the IRS. Moreover, FTB actively checked the status of appellants' dispute with the IRS by obtaining updated 2015 IRS Account Transcripts and issuing position letters on its findings to appellants. Less than two months after issuing the September 2024 position letter, and less than one month after receiving appellants' October 2024 letter, FTB issued the NOA. Accordingly, OTA finds that FTB did not abuse its discretion in denying interest abatement, and that appellants have not established a basis to abate interest.

HOLDINGS

1. OTA does not have jurisdiction to determine whether FTB's proposed assessment has been or should have been discharged in bankruptcy.
2. Appellants have not shown error in FTB's proposed assessment, which is based on a final federal determination.
3. Appellants are not entitled to interest abatement.

DISPOSITION

FTB's proposed assessment is modified to abate the accuracy-related penalty, as conceded by FTB on appeal. Otherwise, FTB's action is sustained.

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Steven Kim
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Steven Kim
Administrative Law Judge

We concur:

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Amanda Vassigh
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Amanda Vassigh
Administrative Law Judge

DocuSigned by:
Asaf Kletter
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Asaf Kletter
Administrative Law Judge

Date Issued: 9/1/2026