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OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **CENTER FOR FALL PREVENTION, INC.**	)	OTA Case No. 250319014

OPINION

Representing the Parties:

For Appellant: Stephen P. Grifka, Representative

For Respondent: Paige Chang, Attorney

G. TURNER, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, Center for Fall Prevention, Inc. (appellant) appeals an action by the Franchise Tax Board (respondent) denying appellant's claim for refund of $1,847.75 plus applicable interest for the 2023 tax year.

Appellant 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 appellant has established reasonable cause to abate the late-payment penalty.
2. Whether appellant has established a basis for abatement of the underpayment of estimated tax penalty (estimated tax penalty).
3. Whether appellant has established a basis for abatement of interest.

FACTUAL FINDINGS

1. On March 12, 2024, appellant attempted payments for its 2023 California corporation franchise or income tax obligations via respondent's WebPay system in the amounts of $12,000 and $45,000.
2. On May 30, 2024, respondent received appellant's 2023 California S Corporation Franchise or Income Tax Return (Form 100S) showing total tax of $145,010 including an elective pass-through entity tax of $124,870, and an overpayment of $37,373. Appellant

requested that $20,300 be credited to its 2024 estimated tax, $16,647 be refunded, and $426 credited to satisfy self-reported penalties and interest.

3. On September 5, 2024, respondent issued a Return Information Notice imposing a late-payment penalty and showing a total balance due of $21,979.74.
4. On September 30, 2024, respondent received correspondence from appellant arguing the imposition of penalties and interest were in error because the calculation failed to reflect appellant's March 12, 2024 payments of $12,000 and $45,000.
5. On October 21, 2024, respondent issued a Corporation Past Due Notice (Notice) showing a balance due of $22,389.98, which reflected total penalties due of $1,847.75 (comprised of a late-payment penalty of $1,766.43 and an estimated tax penalty of $81.32) and interest due of $915.23.
6. On October 30, 2024, appellant contacted respondent concerning the Notice, at which time respondent informed appellant that its records reflected that the March 12, 2024 payments were rejected due to incorrect bank account information entered into the WebPay system.
7. On October 30, 2024, respondent received a payment of $22,389.98.
8. On November 4, 2024, respondent received appellant's Reasonable Cause – Business Entity Claim for Refund form requesting a refund of the penalties and interest charged based on reasonable cause.
9. On January 10, 2025, respondent denied appellant's claims for refund of the late-payment penalty and interest. Appellant deemed the request for abatement of the estimated tax penalty to be denied.
10. This timely appeal followed.

DISCUSSION

Issue 1: Whether appellant has established reasonable cause to abate the late-payment penalty.

R&TC section 19132 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 of the tax. Generally, the date prescribed for the payment of the tax is the due date of the return (without regard to extensions of time for filing). (R&TC, § 19001.) For the 2023 tax year, appellant's return and payment were due on March 15, 2023. (R&TC, §§ 19001, 18601(d)(1), 19914(a)(2).) Appellant did not remit full payment of the tax due until October 30, 2024. Consequently, FTB

properly imposed the late-payment penalty. Appellant does not dispute the imposition or calculation of the late-payment penalty but instead asserts reasonable cause to abate it.

The late-payment penalty may be abated if the taxpayer shows that the failure to make a timely payment of tax was due to reasonable cause and was not due to willful neglect. (R&TC, § 19132(a)(1).) When FTB imposes a penalty, the law presumes that the penalty was imposed correctly, and the taxpayer has the burden of proof to show that reasonable cause exists to support abatement of the penalty. (*Appeal of Xie*, 2018-OTA-076P.) To establish reasonable cause for abating the penalty, a taxpayer must show that the failure to timely pay occurred despite the exercise of ordinary business care and prudence; that is, that the taxpayer acted as an ordinarily intelligent and prudent businessperson would have under similar circumstances. (*Appeal of Friedman*, 2018-OTA-077P.) The failure to timely remit the balance due on a tax liability caused by an oversight, does not, by itself, constitute reasonable cause. (*Ibid*.)

Here, appellant argues that in processing its payments via respondent's WebPay system, it was provided confirmation of the payments being successfully made. While appellant acknowledges that the payments were not successfully made, it asserts the error was due to the mistake of either the bank or respondent. Additionally, appellant supplies verification from their financial institution that at the time of these transactions, there were sufficient funds in appellant's account to satisfy the payments.

Respondent, however, presents documentation demonstrating that appellant's payments were dishonored by their financial institution because invalid account information was entered for the payments at issue. Moreover, respondent notes, appellant's satisfaction of their payment obligation did not occur for another seven months after the deadline.

Whether appellant was provided a confirmation of payments *made* or mere confirmation of payments being *processed* by respondent ultimately does not resolve appellant's burden to show reasonable cause as it failed to adequately monitor its accounts to see that such payments were in fact satisfied on time. A reasonably prudent person exercising due care and diligence would have monitored their bank accounts to determine whether the payments had been successfully made, and finding they were not, taken steps to quickly remedy the error. (See *Appeal of Scanlon*, 2018-OTA-075P; *Appeal of Friedman*, *supra*.) Not only did appellants fail to monitor their bank account but, having been notified of a past due amount on September 5, 2024, failed to resolve the underpayment until October 30, 2024. As stated in the *Appeal of Risser* (84-SBE-044) 1984 WL 16123, "[w]hile we sympathize with appellant[s'] unintentional error, these facts do not form a basis for granting relief from the penalt[y]." Accordingly, OTA finds that appellant has not established reasonable cause to abate the late-payment penalty.

Issue 2: Whether appellant has established a basis for abatement of the estimated tax penalty.

R&TC sections 19142 and 19144 imposes an addition to tax, which is treated as a penalty, where an individual fails to timely pay estimated tax. The addition to tax is similar to an interest charge in that it is calculated applying the interest rate imposed on underpayments of estimated tax.

There is no provision in the R&TC that allows the addition to tax for the underpayment of estimated tax to be abated based solely on a finding of reasonable cause. (*Appeal of* Weaver Equipment Co. (80-SBE-048) 1980 WL 4976. As a result, there is no general reasonable cause exception to the imposition of the addition to tax for the underpayment of estimated tax. (*Ibid*.) The estimated tax penalty is mandatory unless the taxpayer establishes that a statutory exception applies. (*Ibid.*; *Nitschke v. Commissioner*, T.C. Memo. 2016-78.) Although there is no provision allowing for abatement of the estimated tax penalty based solely on reasonable cause, IRC section 6654(e)(3)(A) provides that the taxing agency may waive the estimated tax penalty if it determines that, "by reason of casualty, disaster, or other unusual circumstances the imposition of [the estimated tax penalty] would be against equity and good conscience."

Appellant advances only reasonable cause arguments to support its request for abatement of the estimated tax penalty. Accordingly, OTA finds that appellant has not established grounds to abate the estimated tax penalty.

Issue 3: Whether appellant has established a basis for abatement of interest.

If any amount of the tax is not paid by the due date, interest is required to be imposed from the due date until the date the taxes are paid. (R&TC, § 19101(a).) Interest is not a penalty but is compensation for the taxpayer's use of money which should have been paid to the state. (*Appeal of Balch*, 2018-OTA-159P.) Imposition of interest is mandatory, and it can only be abated in certain limited situations when authorized by law. (R&TC, § 19101(a); *Appeal of Balch*, *supra*.) There is no reasonable cause exception to the imposition of interest. (*Appeal of Moy*, 2019-OTA-057P.) To obtain relief from interest, appellant must qualify under R&TC section 19104, 19112, or 21012; however, based on the evidence and appellant's arguments, none of these statutory provisions apply.[1] Thus, appellant has not established any basis for interest abatement for the taxable year at issue.

[1] OTA has no authority to review respondent's denial of a waiver of interest based on extreme financial hardship under R&TC § 19112. (*Appeal of Moy*, 2019-OTA-057P.)

HOLDINGS

1. Appellant has not established reasonable cause to abate the late-payment penalty.
2. Appellant has not established a basis for abatement of the estimated tax penalty.
3. Appellant has not established a basis for abatement of interest.

DISPOSITION

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

Signed by:
Greg Turner
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Greg Turner
Administrative Law Judge

We concur:

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Teresa A. Stanley
Administrative Law Judge

Signed by:
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Hans Famularo
Administrative Law Judge

Date Issued: 8/26/2026