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OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **J. KO**	OTA Case No. 251123803

OPINION

Representing the Parties:

For Appellant: J. Ko

For Respondent: Rachel Glass, Attorney
Nancy E. Parker, Attorney

T. STANLEY, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Ko (appellant) appeals an action by respondent Franchise Tax Board (FTB) denying appellant's claim for refund of $3,006.25 for the 2021 taxable 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 Teresa A. Stanley held a virtual oral hearing for this matter on July 23, 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

Has appellant established reasonable cause to abate the late-filing penalty?

FACTUAL FINDINGS

1. Appellant late-filed a 2021 California tax return on February 15, 2025.
2. FTB processed the tax return and imposed a late-filing penalty of $3,006.25, which appellant paid.
3. Appellant requested that FTB abate the late-filing penalty due to reasonable cause based on his circumstances in 2021 through February 2025.

4. FTB issued a Claim for Refund Denial Notice denying appellant's claim for refund of the late-filing penalty.
5. Appellant filed this timely appeal.
6. At the oral hearing, appellant testified to the following: (1) he moved in with his parents to care for them while his father suffered a long-term, progressive illness; (2) he promised his father he would take care of his mother since his father did everything for her for 50 years of marriage; (3) his father died in his arms in 2021; (4) he continued to live with his mother and did everything for her, including basic things such as writing checks; (5) caring for his mother after his father died took a lot of effort and all of his attention; (6) his mother never recovered from the death of his father and suffered a stroke in 2025; (7) his father's death and the ensuing care for his mother until her death in 2025 was debilitating and paralyzing; and (8) he married on May 28, 2024.

DISCUSSION

California imposes a penalty for failing to file a return on or before the due date, unless the taxpayer shows that the failure is due to reasonable cause and not due to willful neglect. (R&TC, § 19131.) When FTB imposes a penalty, it is presumed to have been imposed correctly. (*Appeal of Mauritzson*, 2021-OTA-198P.) A taxpayer may rebut this presumption by providing credible and competent evidence supporting abatement of the penalty for reasonable cause. (*Appeal of Xie*, 2018-OTA-076P.)

For a taxpayer to establish that a failure to act was due to reasonable cause, the taxpayer must show that the failure occurred despite the exercise of ordinary business care and prudence, or that cause existed as would prompt an ordinarily intelligent and prudent businessperson to have so acted under similar circumstances. (*Appeal of Belcher*, 2021-OTA-284P.) Illness or other personal difficulties may be considered reasonable cause if the taxpayer presents credible and competent proof that they were continuously prevented from filing a tax return. (*Appeal of Head and Feliciano*, 2020-OTA-127P.) However, if the difficulties simply caused the taxpayer to sacrifice the timeliness of one aspect of their affairs to pursue other aspects, the taxpayer must bear the consequences of that choice. (*Ibid*.)

Here, appellant acknowledges that he filed his tax return late, on February 15, 2025. Therefore, FTB properly imposed the late-filing penalty. Appellant asserts that the penalty should be abated due to reasonable cause, citing personal issues spanning from 2021 through early 2025. Appellant testified under oath or affirmation that: (1) his father died on August 17, 2021, after a serious long-term illness; (2) appellant lost his job and moved in with

his parents in 2021 in order to care for his father; (3) before his father died appellant promised he would take care of his mother who had been previously cared for by his father during a 50 year marriage; (4) everything in appellant's life was "sidelined," including his career, while he cared for his father and later his mother; (5) appellant's mother suffered a stroke and passed in 2025; (6) appellant's grief from 2021 through at least early 2025 was "debilitating," "paralyzing," and "disorienting" and (7) appellant was not married during these personal struggles, and when he did married on May 28, 2024, his wife encouraged him to get back on track with his financial obligations.

FTB contends that appellant's circumstances do not show he acted with reasonable cause. FTB acknowledges that appellant may have needed additional time to resolve his personal affairs but asserts that appellant sacrificed the timeliness of one aspect of his affairs to pursue other aspects, for which he must bear the consequences. (See *Appeal of Head and Feliciano*, *supra*.)

OTA may give weight to credible testimony when it is given under oath or affirmation. (See Cal. Code Regs., §§ 30214(f)(4), (5), 30410.) OTA finds appellant's testimony to be credible and further finds that appellant's personal matters did in fact cause him to be disabled to the point where he could not handle his own financial matters. As noted above, appellant moved in with his parents in 2021 because his father had a serious and progressive illness and was in home hospice care. Appellant took care of his father until his father died in his arms in 2021. Before his father passed, appellant promised to take care of his mother as his father had been doing everything for her for 50 years of marriage. Despite his own debilitating grief, appellant fulfilled his promise and cared for his mother, handling even basics such as writing checks. Appellant credibly testified this took a lot of effort and all of his attention. Appellant also testified that his mother never recovered from the death of his father and suffered a stroke that took her life. Appellant was unable to find employment while caring for first one parent and then the other until her death in 2025. Appellant credibly testified that his grief and care-giving responsibilities were all consuming and prevented him from attending to other aspects of his life such as his employment, and financial affairs, including his tax filings. Appellant also testified that he late-filed his federal tax returns and failed to file in other tax years during the same period. FTB does not identify any aspects of appellant's affairs that he was able to pursue during the relevant time period. Moreover, appellant was unmarried for much of the period at issue and could not turn to another person to handle his financial affairs for him. In fact, once appellant married, his wife encouraged him to get back on track with his "sidelined" financial affairs, which he did.

OTA finds that under the facts and circumstances to which appellant testified, he exercised ordinary business care and prudence in filing his 2021 tax return in 2025 after resolution of his claimed disorientation, paralysis, and debilitation.

HOLDING

Appellant has established reasonable cause to abate the late-filing penalty.

DISPOSITION

OTA overturns FTB's action denying appellant's claim for refund.

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Teresa A. Stanley
Administrative Law Judge

Date Issued: 9/2/2026