

2. Appellants timely filed a joint 2023 California Resident Income Tax Return (return) reporting estimated tax and extension payments totaling \$98,850. After self-assessing an estimated tax penalty of \$183, appellants reported a total amount due of \$193, which appellants remitted with the return.
3. Respondent determined that, although appellants reported tax payments of \$98,850, they had made tax payments of only \$6,416. Accordingly, respondent issued appellants a Notice of Tax Return Change – Revised Balance, which imposed an estimated tax penalty of \$2,057, a late payment penalty of \$5,996.32, and accrued interest.
4. On July 1, 2024, appellants paid the balance due.
5. Appellants timely filed the claim for refund requesting abatement of the late payment penalty and estimated tax penalty for reasonable cause.
6. Respondent denied appellants' claim for refund.
7. Appellants timely filed this appeal. During the appeal, appellants submitted documentation supporting that L. Fritz's parents passed away in March and June 2024, that L. Fritz has been the caretaker of her son since September 20, 2024, and that L. Fritz claimed Paid Family Leave beginning September 28, 2024, to care for her son who received an organ transplant. Appellant also requested one-time abatement of the late payment penalty of \$5,996.32, and respondent agreed to grant one-time abatement of the late payment penalty.

DISCUSSION

California imposes an estimated tax penalty for the failure to timely make estimated income tax payments, conforming to Internal Revenue Code (IRC) section 6654. (R&TC, § 19136(a); IRC, § 6654.) The estimated tax penalty is similar to an interest charge and applies from the due date of the estimated tax payment until the date it is paid. (IRC, § 6654(a).) Here, appellants failed to timely make the full amount of the required estimated tax payments.³ Therefore, respondent properly imposed the estimated tax penalty.

Here, appellants do not dispute the calculation or imposition of the estimated tax penalty. Instead, appellants appear to argue that there was reasonable cause for the failure to timely make the estimated tax payment. Appellants contend that the estimated tax payment was scheduled for timely payment, but that the payment was unsuccessful as a result of "a typographical error." Appellants assert that they were unaware of the failed estimated tax

³ Respondent postponed the due date for quarterly estimated tax payments for the first, second and third quarter of 2023, until November 16, 2023, due to the 2022-2023 winter storms. (See <https://www.ftb.ca.gov/file/when-to-file/california-severe-winter-storms.html>.)

payment because L. Fritz has been under extreme emotional distress due to her parents' passing and her son's illness. Appellants argue that D. Fritz would not have known about the attempted estimated tax payment because he did not handle appellants' tax filing and payment obligations. Appellants also request one-time abatement of the estimated tax penalty.

OTA recognizes that appellants fully intended to timely pay the estimated tax, but that the payment failed because appellants used an incorrect bank account number. OTA is also sympathetic to the difficulties that appellants have endured due to their son's illness and the passing of L. Fritz's parents. However, there is no general reasonable cause exception to the estimated tax penalty.⁴ (*Appeal of Mazdyasni*, 2018-OTA-049P.) Relief from the estimated tax penalty is not available upon a mere showing of reasonable cause or a lack of willful neglect; thus, extenuating circumstances are not relevant to the analysis. (*Ibid.*) Although appellants argue that D. Fritz would not have known about the failed estimated tax payment, appellants jointly filed their 2023 California return, and both D. Fritz and L. Fritz are jointly and severally liable for the tax liability. (See R&TC, § 19006(b).) Moreover, one-time penalty abatement pursuant to R&TC section 19132.5 only applies to a timeliness penalty imposed under R&TC sections 19131 and 19132, i.e., a late filing or late payment penalty, and not the estimated tax penalty. (R&TC, § 19132.5(c).)

The estimated tax penalty may be waived if, by reason of casualty, disaster, or other unusual circumstances, the imposition of the penalty would be against equity and good conscience. (See IRC, § 6654(e)(3)(A).) In this context, OTA interprets "casualty" and "disaster" to refer to unexpected events that cause a hardship or loss such that, depending on the circumstances, it might be inequitable to apply the penalty. (*Appeal of Johnson*, 2018-OTA-119P.) The exception for unusual circumstances is considerably narrower than reasonable cause. (*Appeal of Mazdyasni*, *supra*.) The legislative history of IRC section 6654(e)(3)(A) indicates that waiver may be appropriate where: the taxpayer's books and records were destroyed by fire or other casualty; an estimated tax payment was not made due to the death or serious illness of the taxpayer; imposition of the penalty would be inequitable because, for example, the taxpayer substantially overstated their tax liability on their return or because the taxpayer designated that an overpayment of tax for the prior year be credited against their estimated tax, but the overpayment is offset for either past-due child support or non-tax federal

⁴ However, the estimated tax penalty is waived if it is established that the failure to timely pay the estimated tax payment was due to reasonable cause and not to willful neglect; and in the taxable year for which the estimated payments were required to be made or in the previous year, the taxpayer either (1) retired after reaching age 62 or (2) became disabled. (IRC, § 6654(e)(3)(B).) Appellants have not alleged, and the record does not show, that the waiver applies; therefore, OTA does not discuss it further.

debt under IRC section 6402 subdivision (c) or (d), and the taxpayer was not notified of the offset until after the due date for the estimated tax payment. (*Ibid.*) The taxpayer bears the burden of establishing that waiver of the penalty applies. (*Appeal of Saltzman*, 2019-OTA-070P.)

To the extent that appellants argue their emotional distress was an unusual circumstance such that it is inequitable to apply the estimated tax penalty, appellants were otherwise able to (and in fact did) timely schedule the estimated tax payment. However, the estimated tax payment was ultimately unsuccessful, and the penalty was thus imposed, due to “a typographical error.” Moreover, the record shows that L. Fritz’s parents passed away in March and June 2024, and that L. Fritz became the caretaker for appellants’ son in September 2024, long after appellants scheduled the estimated tax payment. Based on the foregoing, appellants have not established that their emotional distress was an unusual circumstance such that the estimated tax penalty should be waived.

HOLDING

Appellants have not established a basis to abate the estimated tax penalty.

DISPOSITION

Respondent’s action denying the claim for refund is modified to allow a one-time abatement of the late payment penalty. Otherwise, respondent’s action is sustained.

DocuSigned by:
Steven Kim
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Steven Kim
Administrative Law Judge

We concur:

DocuSigned by:
Asaf Kletter
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Asaf Kletter
Administrative Law Judge

DocuSigned by:
Erica Parker
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Erica Parker
Hearing Officer

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