OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of: **J. STRICKLAND AND** **T. STRICKLAND**	OTA Case No. 250722600

OPINION

Representing the Parties:

For Appellants: Daniel Hollenback, E.A.

For Respondent: Vivian Ho, Attorney

V. LONG, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, J. Strickland and T. Strickland (appellants) appeal an action by respondent Franchise Tax Board (FTB) denying appellants' claim for refund of $4,763 for the 2024 tax year.

Appellants 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).) 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).

ISSUE

Whether appellants have established entitlement to waiver of the underpayment of the estimated tax penalty (estimated tax penalty).

FACTUAL FINDINGS

1. Appellant-wife was a 33 percent shareholder in TKS Properties, Inc. (TKS), which owned and operated a rental storage facility located in California in 2024. In June of 2024, TKS entered into an asset sale which resulted in recognition of $1,472,000 of capital gain by appellant-wife.
2. On April 2, 2025, appellants filed a 2024 California Nonresident or Party-Year Resident Income Tax Return (return) reporting California adjusted gross income (AGI) in excess of $1 million. Appellants attached Form 5805, which requested waiver of the estimated

tax penalty. Appellants submitted payments with their return that, combined with estimate payments and a transfer from another tax year, satisfied their 2024 tax year tax liability and the estimated tax penalty.

3. On April 20, 2025, FTB issued appellants a notice imposing the estimated tax penalty and, on May 21, 2025, FTB issued appellants a notice denying their request for waiver of the estimated tax penalty.

4. This time appeal follows.

DISCUSSION

California generally conforms to Internal Revenue Code (IRC) section 6654 by imposing an estimated tax penalty for the failure to make timely estimated income tax payments.[1] (R&TC, § 19136(a).) The estimated tax penalty is similar to an interest charge, and it applies from the due date of the estimated tax payment until the date it is paid or April 15 of the following year, whichever comes first. (IRC, § 6654(b)(2); *Appeal of Johnson*, 2018-OTA-119P.) The required annual payment is 90 percent of the tax shown on the return for the current taxable year.[2] (R&TC, § 19136.3(a); IRC, § 6654(d)(1)(B).) Appellants do not dispute the estimated tax penalty was properly imposed or calculated. Rather, they request that the penalty be waived.

There is no general reasonable cause exception for the estimated tax penalty. (*Appeal of Johnson*, *supra*.) There are only two situations where the estimated tax penalty may be waived. The first situation applies only where the underpayment of estimated taxes was caused by a casualty, disaster, or other unusual circumstances, such that imposition of the penalty would be against equity and good conscience. (IRC, § 6654(e)(3)(A).) The exception for unusual circumstances is considerably narrower than reasonable cause. (*Appeal of Mazdyasni*, 2018-OTA-049P.) The second situation applies only to newly retired or disabled individuals: the penalty may be waived if the taxpayer either retired after having attained age 62 or became disabled in the tax year for which estimated payments were required to be made or in the tax year preceding such tax year, but only if the underpayment of estimated taxes was due to

[1] Where estimated tax payments are due, R&TC section 19136.1(a)(2) generally requires, for California income tax purposes, that the payments be made in installments on or prior to April 15 and June 15 of the applicable tax year, and January 15 of the subsequent tax year.

[2] IRC section 6654(d)(1)(B)(ii)-(C)(i) allows taxpayers with an AGI in excess of $150,000 to instead pay 110 percent of the tax shown as due on the return for the preceding taxable year, but California conformity to this section is modified pursuant to R&TC section 19136.3. Under to R&TC section 19136.3, for taxable years beginning on or after January 1, 2009, the 110 percent option is not available for taxpayers whose AGI is in excess of $1 million. Here, since appellants reported AGI in excess of $1 million, the provision does not apply.

reasonable cause and not willful neglect. (IRC, § 6654(e)(3)(B).) The estimated tax penalty is mandatory unless the taxpayer establishes that a statutory exception applies. (*Appeal of Johnson*, *supra*.)

Appellants assert that imposition of the estimated tax penalty would be against equity and good conscience because the unexpected sale of business assets resulted in capital gain. However, IRC section 6654(e)(3)(A) only permits waiver of the penalty in instances of “casualty, disaster, or other unusual circumstances.” The phrase “unusual circumstances” generally refers to items that are similar to a “casualty” or “disaster”—that is, unexpected events that cause a hardship or loss such that, due to the circumstances, it would be inequitable to impose the estimated tax penalty. (*Appeal Johnson*, *supra*.) A large financial gain is generally not the type of unexpected event qualifying for relief. (*Ibid*.) Instead, the estimated tax penalty has been waived by the IRS in situations “where a tax law change, disaster, required accounting method change, or a Government action or inaction, caused extreme difficulty in estimating the tax.” (*Appeal of Mazdyasni*, *supra*.) Here, rather than suffering an unexpected hardship, appellants received a substantial payment in respect to their stock in a corporation. OTA does not find that imposing the estimated tax penalty under these circumstances would offend “equity and good conscience.” (See *Appeal of Saltzman,* 2019-OTA-070P.)

Next, appellants contend that they are both over the age of 62 and retired, and that they exercised reasonable cause but nonetheless failed to timely make the required estimated tax payments because of extenuating and unusual circumstances. While appellants’ brief asserts that appellants permanently retired on the sale of TKS in 2024, appellants have not provided evidence to support that they retired in 2024. Unsupported assertions are insufficient to satisfy a taxpayer’s burden of proof. (*Appeal of Bindley,* 2019-OTA-179P.) Even if appellants had provided evidence supporting that they retired in 2024, appellants would be required to also establish that they exercised reasonable cause. Generally, showing reasonable cause requires showing that the failure to timely make a required payment occurred despite the exercise of ordinary business care and prudence. (*Appeal of Moren*, 2019-OTA-176P.) Where a taxpayer asserts the failure to timely make a required payment was caused by a lack of information, the taxpayer must show the efforts made to acquire the information from the source that held it. (*Ibid*.) Here, appellants have not shown what efforts, if any, they made to acquire the information necessary to timely make the required payments. OTA finds that appellants have not shown that they are entitled to a waiver of the estimated tax penalty.

HOLDING

Appellants have not established entitlement to waiver of the estimated tax penalty.

DISPOSITION

FTB's denial of appellants' claim for refund is sustained.

Signed by:
Veronica I. Long
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Veronica I. Long
Administrative Law Judge

Date Issued: 6/12/2026