

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 250923254
M. TRIPATHY AND	)	
K. KITTUR	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellants:	M. Tripathy K. Kittur
For Respondent:	Blake Cunningham, Specialist

K. SHELTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, M. Tripathy and K. Kittur (appellants) appeal an action by the Franchise Tax Board (respondent) denying appellants' claim for refund of \$7,865 for the 2024 tax year.

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 are entitled to a refund of the penalty for failing to pay estimated taxes (Estimated Tax Penalty).

FACTUAL FINDINGS

- Appellants timely filed their Form 540 California Resident Income Tax Return (Return) for the 2024 tax year, and reported an amount of adjusted gross income (AGI) greater than \$1 million. Appellants had taxes withheld, but did not make quarterly payments for the 2024 tax year.
- On July 2, 2025, respondent issued appellants a Notice of Tax Return Change imposing an Estimated Tax Penalty of \$7,865, and applicable interest, for failing to timely pay the full amount of the estimated taxes for the first, second, and fourth quarters for the 2024 tax year. Respondent's imposition of the Estimated Tax Penalty was based on the

estimated tax payments that appellants should have paid based on their AGI reported on their 2024 Return.

3. Appellants paid the Estimated Tax Penalty and applicable interest, and timely filed a claim for refund. Respondent denied the claim for refund.
4. Appellants timely filed their appeal.

DISCUSSION

Taxpayers who owe more than \$500 in tax, after applying income tax withholdings and credits, are required to make estimated tax payments in California. (R&TC, § 19136(c)(2); Internal Revenue Code (IRC), § 6654; *Appeal of Mazdyasni*, 2018-OTA-049P.)¹ Estimated tax payments are to be paid three times a year as follows: 30 percent of the required annual payment of the estimated tax is due on April 15; 40 percent of the required annual payment of estimated tax is due on June 15; and 30 percent of the required annual payment of estimated tax is due on January 15 of the following tax year. (R&TC, § 19136.1(a)(2).) Generally, a taxpayer can elect to make annual payments of estimated taxes equal to either 90 percent of the tax shown on the return for that current taxable year, or equal to 110 percent of the tax shown on the return for the prior year. (IRC, § 6654(d)(1)(B)(i & ii)-(C)(i).)

However, a taxpayer reporting an AGI in an amount of \$1 million or greater cannot elect to make annual payments equal to 110 percent of the tax shown on the return for the prior year, as California does not conform to this safe harbor. (R&TC, § 19136.3(a); *Appeal of Mazdyasni*, *supra*.) A taxpayer who receives income unevenly during the year may elect to use the annualized income installment method in lieu of making payments based on the tax reported for the current year. (R&TC, § 19136.1(b)(1); IRC, § 6654(d)(2)(C)(i).) The annualized income installment method is based on the amount of tax that could be reasonably estimated for the months in the taxable year preceding each due date for estimated tax. (*Appeal of Saltzman*, 2019-OTA-070P.)

California imposes the Estimated Tax Penalty for the failure to timely make estimated tax payments. (R&TC, § 19136(a); IRC, § 6654.) There is no provision that allows the Estimated Tax Penalty to be abated based solely on a finding of reasonable cause and, as a result, there is no general reasonable cause exception to the Estimated Tax Penalty. (*Appeal of Saltzman*, *supra*.) However, the penalty may be waived in two circumstances.

First, 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

¹ Except where noted, California conforms to IRC section 6654.

conscience.” (IRC, § 6654(e)(3)(A).) The legislative history of IRC section 6654(e)(3)(A) indicates that waiver of the Estimated Tax Penalty may be appropriate in certain circumstances, such as where a 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; the 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 other obligations and the taxpayer was not notified of the offset until after the due date for the estimated tax payment. (H.R. Conf. Rep. No. 861, 98th Cong., 2d Sess., 1115-1116 (1984); S. Rep. No. 169 (Vol 1) 98th Cong., 2d Sess. 506-507 (1984); *Appeal of Mazdyasni*, *supra*.) An unusual circumstance, however, does not include stock market volatility or the profitable sale of an asset. (*Appeal of Johnson*, 2018-OTA-119P; See *Farhoumand v. Commissioner*, T.C. Memo. 2012-131.)

Second, the Estimated Tax Penalty may also be waived if the taxpayer establishes that the failure to timely pay the estimated tax was due to reasonable cause and the taxpayer either retired after reaching age 62 or became disabled in the taxable year for which the estimated payments were required to be made or in the previous year. (IRC, § 6654(e)(3)(B).)

Except as otherwise specifically provided by law, the burden of proof is on appellants as to all issues of fact. (Cal. Code Regs., tit. 18, § 30219(a).) The burden of proof requires that the taxpayer prove their case by a preponderance of the evidence. (Cal. Code Regs., tit. 18, § 30219(b).) To satisfy this evidentiary standard, appellants must establish by documentation or other evidence that the purported facts that they assert are more likely than not to be correct. (*Appeal of Estate of Gillespie*, 2018-OTA-052P.)

Appellants reported an AGI in an amount greater than \$1 million in the 2024 tax year; therefore, appellants were required to compute the amount of their estimated taxes using 90 percent of their AGI for the 2024 tax year, and were not entitled to compute the amount of their estimated taxes using 110 percent of their AGI reported on their Return for the prior 2023 tax year. (R&TC, § 19136.3; IRC, § 6654(d)(1)(B)(ii)-(C)(i).) Appellants suggest that they were entitled to use the annualized income installment method, and also argue that they are entitled to a waiver of the Estimated Tax Penalty under IRC section 6654(e)(3)(A).

In an attachment to the Form 5805, Underpayment of Estimated Tax by Individuals and Fiduciaries, which appellants include with their appeal to OTA, appellants state that “[i]n 2024, our California adjusted gross income increased significantly and unexpectedly due to unplanned stock sales that occurred late in the year.” Appellants further indicate that their “income in 2024

was not received evenly throughout the year. My compensation included a job transition mid-year, restricted stock units vesting in large blocks, and bonus income late in the year, which significantly altered the timing of my income. The annualized method more accurately reflects my payment obligations and supports a reduction or elimination of the penalty.” Appellants argue that the uneven timing of their income caused “difficulty in projecting their quarterly estimated tax obligations,” which constitute unusual circumstances and reasonable cause.

Appellants have not provided documentation to support the assertion that their income in the 2024 tax year was uneven, such as bank records (including checks) reflecting deposits of payments or receipt of income, or provided any analysis of what their estimated taxes would have been for each quarter had they used the annualized income installment method. Therefore, appellants have not provided support for the argument that they are entitled to use the annualized income installment method under R&TC section 19136.1(b)(1) and IRC section 6654(d)(2)(C)(i), and OTA is unable to otherwise determine that appellants could have used the annualized income installment method. (R&TC, § 19136.1(b)(1); IRC, § 6654(d)(2)(C)(ii).)

Appellants indicate that they received income unevenly in the 2024 tax year from the vesting of restricted stock units and bonus income, and argue that the purported unevenness of their receipt of this income qualifies as an unusual circumstance, which entitles them to relief from the Estimated Tax Penalty under IRC section 6654(e)(3)(A). Typically, an event that would qualify as a casualty, disaster, or other unusual circumstance is an adversity, like a fire or illness, or unusual reporting on a tax return such as overstated income or the application of a tax credit carryover, for which the assertion of the Estimated Tax Penalty would be inequitable. (*Appeal of Mazdyasni, supra.*) While OTA is sympathetic to appellants’ difficulty in anticipating their income for the purpose of reporting estimated taxes, their receipt of income from the vesting of stock and a bonus, even if it were paid out unevenly during the year, was neither an adversity nor an unusual event on their Return, and, therefore, does not qualify as a casualty, disaster, or other unusual circumstances for which the imposition of the Estimated Tax Penalty would be against equity and good conscience. (See *Appeal of Johnson, supra.*) Appellants do not argue, and there are no facts that would indicate, that they either retired after reaching age 62 or became disabled in the 2024 tax year. Therefore, there are no facts that would indicate that appellants qualify for the second waiver of the Estimated Tax Penalty for reasonable cause

under IRC section 6654(e)(3)(B). Thus, the waivers of the Estimated Tax Penalty under IRC section 6654(e)(3)(A) and (B) do not apply to appellants.

Appellants appear to request a waiver of the Estimated Tax Penalty under R&TC section 19136 for reasonable cause, which is allowed under R&TC section 19132 for the untimely payment of income taxes. However, the reasonable cause provision in RT&C section 19132(a)(1) applies only to the penalty for the late payment of income taxes, which is not at issue here, and does not apply to the Estimated Tax Penalty under R&TC section 19136. Therefore, reasonable cause under R&TC section 19132 is not applicable in this case.

Appellants also request a one-time waiver of the Estimated Tax Penalty on the basis of their compliance history. A one-time penalty abatement exists under R&TC section 19132.5 for the late-filing penalty under R&TC section 19131 and late-payment penalty under R&TC section 19132. However, the one-time penalty abatement only applies to penalties asserted under R&TC sections 19131 and 19132, but not to penalties asserted under R&TC section 19136.

Accordingly, appellants are not entitled to a waiver or any other exception from the Estimated Tax Penalty imposed under R&TC section 19136.

HOLDING

Appellants are not entitled to a refund of the Estimated Tax Penalty.

DISPOSITION

Respondent's action is sustained.

Signed by:

L. Katrine Shelton

L. Katrine Shelton
Administrative Law Judge

We concur:

DocuSigned by:

Amanda Vassigh

Amanda Vassigh
Administrative Law Judge

Signed by:

Veronica I. Long

Veronica I. Long
Administrative Law Judge

Date Issued: 6/24/2026