

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 251224104
T. TAN AND	)	
C. TAN	)	
	)	
	)	
	)	

OPINION

Representing the Parties:

For Appellants:	T. Tan and C. Tan
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For Respondent:	Tristen Thalhuber, Attorney
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N. RALSTON, Administrative Law Judge: Pursuant to Revenue and Taxation Code (R&TC) section 19324, T. Tan and C. Tan (appellants) appeal an action by the Franchise Tax Board (respondent) denying appellants' claim for refund of \$2,425 for the 2024 tax year.

Appellants elected to have this appeal determined pursuant to the procedures of the Small Case Program (SCP). Those procedures require the assignment of a single administrative law judge. (Cal. Code Regs, tit. 18, § 30209.1.) Appellants waived the right to an oral hearing; therefore, the matter is being decided based on the written record.

ISSUE

Whether appellants have established that they are entitled to abatement of the understatement of estimated tax penalty.

FACTUAL FINDINGS

1. Appellants filed a timely California Income Tax Return (return) for the 2024 tax year and timely paid their 2024 tax liability.
2. Respondent accepted appellants' return as filed and assessed a \$2,425 estimated tax penalty.
3. Appellants paid the estimated tax penalty and subsequently filed a claim for refund of the estimated tax penalty and interest for the 2024 tax year based on reasonable cause.
4. Respondent denied the claim for refund, and this timely appeal followed.

DISCUSSION

R&TC section 19136 conforms to Internal Revenue Code (IRC) section 6654, with certain exceptions, and imposes an addition to tax, which is treated as a penalty, where a taxpayer fails to timely pay estimated tax. There is no provision in the IRC or R&TC that allows the estimated tax penalty to be abated solely on a finding of reasonable cause. (*Appeal of Johnson*, 2018-OTA-119P.) The estimated tax penalty may be waived under two limited conditions: (1) the underpayment of tax was due to “casualty, disaster, or other unusual circumstances” such that imposition of the penalty would be “against equity and good conscience”; or (2) if during the tax year or the preceding year, the taxpayer either retired after having attained age 62 or became disabled, and the underpayment was due to reasonable cause and not willful neglect. (IRC, § 6654(e)(3)(A)-(B).)

Appellants argue that the estimated tax penalty should be abated due to an unforeseen merger of one of their stock holdings which caused their capital gain income to unexpectedly increase in 2024. Appellants assert that the income they earned in 2024 as a result of the unexpected merger is significantly greater than the income they earned in 2023, and that it was not earned evenly throughout the 2024 tax year.

Appellants do not dispute that they failed to make timely payments of their estimated tax for the 2024 tax year. Instead, appellants make a reasonable cause argument that the penalty should be abated. 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, supra.*) The exception for unusual circumstances is considerably narrower than reasonable cause. (*Appeal of Mazdyasni*, 2018-OTA-049P.) The taxpayer bears the burden of establishing that waiver of the penalty applies. (*Appeal of Saltzman*, 2019-OTA-070P.) Appellants argument that they received unexpected income is not sufficient to meet their burden that the waiver of the penalty applies because financial gain does not amount to unusual circumstances such that imposing the penalty would be against equity and good conscience. (*Ibid.*)

HOLDING

Appellants have not established that they are entitled to abatement of the understatement of the estimated tax penalty.

DISPOSITION

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

Signed by:

Natasha Ralston

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Natasha Ralston

Administrative Law Judge

Date Issued: 7/29/2026