

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 18010930
)
PON NYONG YI) Date Issued: April 8, 2019
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)
_____)

OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant: Pon Nyong Yi
For Respondent: David Kowalczyk, Tax Counsel

J. ANGEJA, Administrative Law Judge: On December 13, 2018, the Office of Tax Appeals (OTA) issued a decision sustaining respondent Franchise Tax Board’s (FTB) denial of appellant Pon Nyong Yi’s (appellant) claim for refund of a \$3,762.50 late-filing penalty imposed for the 2015 tax year. By letter dated January 6, 2019, appellant petitioned for rehearing of this matter. Upon consideration of the petition for rehearing, we conclude that the grounds set forth therein do not constitute good cause for a new hearing, as required by *Appeal of Sjofinar Do*, 2018-OTA-002P,¹ and California Code of Regulations, title 18, section 30604, subdivisions (a)-(e).

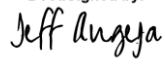
Good cause for a new hearing may be shown where one of the following grounds exists and the rights of the complaining party are materially affected: (1) irregularity in the proceedings by which the party was prevented from having a fair consideration of its case; (2) accident or surprise that occurred during the proceedings and prior to the issuance of the written opinion, which ordinary prudence could not have guarded against; (3) newly discovered, relevant evidence, which the party could not, with reasonable diligence, have discovered and produced prior to the issuance of the written opinion; (4) insufficient evidence to justify the

¹ Opinions of the OTA are generally available on its website: <www.ota.ca.gov/opinions>.


written opinion, or the opinion is contrary to law; or (5) error in law. (*Appeal of Sjofinar Do, supra*; Cal. Code Regs., tit. 18, § 30604(a)-(e).)

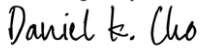
In his petition for rehearing, appellant does not set forth specific grounds for a new hearing, but repeats the same argument that he presented to OTA during the initial appeal (i.e., he asserts that he suffered substantial losses in the stock market and had to borrow money to pay his income taxes). OTA has already addressed these arguments. Appellant has not demonstrated any irregularity in OTA’s proceedings, offered new evidence which he could not, with reasonable diligence, have discovered and produced prior to the decision of his appeal, or established that the evidence was insufficient to justify OTA’s decision. Furthermore, appellant has not demonstrated any error in law. Accordingly, we find appellant has not shown good cause for a new hearing as is required by the authorities referenced above.

For the foregoing reasons, appellant’s petition is hereby denied.

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Jeffrey G. Angeja
Administrative Law Judge

We concur:

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Teresa A. Stanley
Administrative Law Judge

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Daniel K. Cho
Administrative Law Judge