

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of:  
**PENNY THINNES**

) OTA Case No. 18010946  
)  
) Date Issued: April 12, 2019  
)  
)  
)

**DECISION ON PETITION FOR REHEARING**

Representing the Parties:

For Appellant: Penny Thinnes  
For Respondent: Joel M. Smith, Tax Counsel

N. DANG, Administrative Law Judge: On December 18, 2018, we issued a decision sustaining the Franchise Tax Board’s (FTB) action denying appellant’s claim for refund of \$9,377.34 for the 2014 tax year. Pursuant to California Code of Regulations, title 18, section 30602, appellant filed a timely petition for rehearing (Petition), requesting that this decision be reconsidered. Upon due consideration of appellant’s Petition, we conclude that the grounds set forth therein do not constitute good cause for a rehearing.

Good cause for a rehearing is shown where one of the following grounds exist and the rights of the complaining party are materially affected: (1) an irregularity in the proceedings by which the party was prevented from having a fair consideration of its appeal; (2) accident or surprise, which ordinary prudence could not have guarded against; (3) newly discovered evidence, material for the party making the petition for rehearing, which the party could not, with reasonable diligence, have discovered and produced prior to the decision; (4) insufficiency of the evidence to justify the decision, or the decision is contrary to law; or (5) an error in law. (Cal. Code Regs., tit. 18, § 30604(a) – (e).)

In her Petition, appellant asserts that the decision reached the incorrect result because it relied upon “past cases” which were factually dissimilar to appellant’s situation. Appellant also asserts that a rehearing is warranted because a similarly situated taxpayer with whom she is familiar with, received abatement from FTB of the same penalties and interest imposed upon

appellant. Further, appellant argues that the decision erroneously states that she “self-assessed” interest, late-return, and late-payment penalties on her 2014 return, because she was mentally incapable of making such a determination. Finally, appellant’s Petition mostly reiterates or elaborates upon her prior argument that she was suffering from mental health issues, which prevented her from timely paying her taxes.

Appellant’s new contentions are not grounds for a rehearing and are without merit. The arguments raised in appellant’s Petition do not pertain to any of those situations described above in California Code of Regulations, title 18, section 30604 (a) – (e) (e.g., irregularity in the proceedings). In addition, the cases cited in the decision provided authority for the applicable standard for which abatement of the penalties and interest imposed upon appellant are warranted, and were properly applied to the appeal. That appellant is allegedly aware of another similarly situated taxpayer who received penalty and interest abatement, is irrelevant to whether appellant is entitled to abatement under the law. Finally, “self-assessed” means that appellant included on her return interest and penalties, and not necessarily that she personally determined those penalties/interest or computed the amounts herself.

Appellant’s remaining arguments were previously addressed in the decision, and we decline to consider them again. Dissatisfaction with the decision, and the attempt to reargue the same issues a second time, are not grounds for a rehearing. (*Appeal of Smith*, 2018-OTA-154P, Nov. 28, 2018.)<sup>1</sup>

For the foregoing reasons, we conclude that appellant has not shown good cause for a rehearing.

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*Nguyen Dang*  
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Nguyen Dang  
Administrative Law Judge

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<sup>1</sup> Office of Tax Appeals’ (OTA) opinions are viewable on OTA’s website at: <[www.ota.ca.gov/opinions](http://www.ota.ca.gov/opinions)>.

We concur:

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*Daniel K. Cho*

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Daniel K. Cho

Administrative Law Judge

DocuSigned by:

*Sara A. Hosey*

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Sara A. Hosey

Administrative Law Judge