

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

In the Matter of the Appeal of: ) OTA Case No. 18042591  
**JESUS ORTIZ** )  
 ) Date Issued: September 18, 2019  
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**OPINION ON PETITION FOR REHEARING**

Representing the Parties:

For Appellant: Jesus Ortiz  
For Respondent: Mira Patel, Tax Counsel

J. ANGEJA, Administrative Law Judge: On May 10, 2019, the Office of Tax Appeals (OTA) issued an Opinion sustaining respondent Franchise Tax Board’s (FTB) proposed assessment of tax and a late-filing penalty, plus applicable interest. By letter dated June 3, 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, 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 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 repeats the same argument that he presented to OTA during the initial appeal (i.e., he disagrees with the tax because he paid his mortgage with

family loans), and he provided an incomplete<sup>1</sup> 2015 California Resident Income Tax Return, dated June 6, 2019, showing a tax liability of zero.

OTA has already addressed appellant’s argument that he paid his mortgage using family loans, and OTA rejected the argument because appellant failed to prove that this was the source of the mortgage payments. Similarly, the newly provided tax return does not establish the source of the mortgage payments. Moreover, appellant has not established that he could not have provided this return prior to the issuance of our May 10, 2019 Opinion in this matter, and therefore the return is not “newly discovered, relevant evidence, which the party could not have reasonably discovered and provided prior to the issuance of the written opinion.” (Cal. Code Regs., tit. 18, § 30604(c).)

Additionally, appellant has not demonstrated any irregularity in OTA’s proceedings, nor 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.

DocuSigned by:  
*Jeff Angeja*  
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Jeffrey G. Angeja  
Administrative Law Judge

We concur:

DocuSigned by:  
*Amanda Vassigh*  
7B17E958B7C14AC  
Amanda Vassigh  
Administrative Law Judge

DocuSigned by:  
*Daniel Cho*  
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Daniel K. Cho  
Administrative Law Judge

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<sup>1</sup> Appellant did not provide a copy of his federal return nor the schedules required to be filed with that return.