

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

In the Matter of the Appeal of:  
**ALICIA GAMARRA**

) OTA Case No. 18010924  
)  
) Date Issued: October 9, 2019  
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)

**OPINION ON PETITION FOR REHEARING**

Representing the Parties:

For Appellant: Frank Bellosprito, Representative  
For Respondent: David Kowalczyk, Tax Counsel  
Nancy Parker, Tax Counsel IV

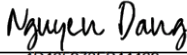
N. DANG, Administrative Law Judge: On June 24, 2019, we issued a decision sustaining the Franchise Tax Board’s (FTB’s) action denying appellant’s refund claims for the 2014 through 2016 tax years. Thereafter, appellant filed a timely petition for rehearing (Petition). Upon due consideration of appellant’s Petition, we conclude that the grounds set forth therein do not meet the requirements for a rehearing under California Code of Regulations, title 18, section (Regulation) 30604.

A rehearing may be granted where one of the following grounds exist and the rights of the complaining party (here, appellant) are materially affected: (a) an irregularity in the proceedings by which the party was prevented from having a fair consideration of its appeal; (b) accident or surprise which occurred during the appeal proceedings and prior to the issuance of the written opinion, which ordinary prudence could not have prevented; (c) newly discovered relevant evidence, which the party could not have reasonably discovered and provided prior to issuance of the written opinion; (d) insufficient evidence to justify the written opinion or the opinion is contrary to law; or (e) an error in law. (Regulation 30604(a)–(e).)


Appellant asserts that a rehearing is warranted based on essentially the same arguments previously presented on appeal, and that our failure to render a decision favorable to appellant in this matter means that there was insufficient evidence to justify the decision, the decision was


contrary to law, and there was an error in law. Based on numerous legal precedents, we found in the decision that appellant's arguments were frivolous and entirely without merit, and imposed a frivolous appeal penalty. Appellant's dissatisfaction with the decision and attempt to reargue the same issues do not constitute grounds for a rehearing. (*Appeal of Smith*, 2018-OTA-154P.)

Accordingly, appellant's Petition is hereby denied.

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Nguyen Dang  
Administrative Law Judge

We concur:

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Linda C. Cheng  
Administrative Law Judge

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Kenneth Gast  
Administrative Law Judge