

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 18011385
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UNIQUE SPORTS ACCESSORIES, INC.)	
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OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant:	Joel S. Wyenn, President
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For Respondent:	Marguerite Mosnier, Tax Counsel IV
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For Office of Tax Appeals:	Sheriene Anne Ridenour, Tax Counsel IV
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P. KUSIAK, Administrative Law Judge: On April 4, 2019, the Office of Tax Appeals (OTA) issued an opinion finding that: (1) Unique Sports Accessories, Inc. (appellant) did not establish that the underpayment of estimated tax penalties imposed for tax years 2011 through 2014 should be abated; (2) appellant did not establish that its failure to respond to respondent Franchise Tax Board's (FTB) Demands for Tax Return for tax years 2011 and 2012 was due to reasonable cause and not due to willful neglect; and (3) appellant did not establish that its failure to timely pay tax for 2014 was due to reasonable cause and not due to willful neglect. We sustained FTB's denial of appellant's claims for refund for the tax years at issue.

Appellant filed a timely petition for rehearing of this matter under California Revenue and Taxation Code (R&TC) section 19048. Upon consideration of the petition for rehearing, we conclude that the reasons set forth therein do not constitute grounds for a new hearing, as required by *Appeal of Sjoftinar Do*, 2018-OTA-002P¹ and California Code of Regulations, title 18, section 30604, subdivisions (a)-(e).

A petition for rehearing may be granted where one of the following grounds exists and materially affected the substantial rights of the party seeking a rehearing: (1) an irregularity in


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

the proceedings prior to the issuance of the opinion which prevented fair consideration of the appeal; (2) accident or surprise that occurred during the proceedings and prior to the issuance of the written opinion, which ordinary prudence could not have prevented; (3) newly discovered, relevant evidence, which the party could not have reasonably 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 its petition for rehearing, while appellant contends that its representative did not provide substantiating documentation on appeal, appellant has not demonstrated that the documentation submitted with the petition is newly discovered, relevant evidence which it could not have discovered and produced prior to the decision of its appeal. In fact, the documentation submitted did not offer anything further concerning the difficulties of Mr. Wyenn, the president and sole shareholder of the appellant corporation. In addition, appellant's petition repeats the same evidence and arguments that it presented to OTA during the initial appeal. OTA has already addressed these arguments.


Accordingly, we find that appellant has not shown grounds 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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Patrick J. Kusiak
Administrative Law Judge

We concur:

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Alberto T. Rosas
Administrative Law Judge

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Kenneth Gast
Administrative Law Judge

Date Issued: 1/14/2020