

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

In the Matter of the Appeal of:  
**PACITA I. PIO**

) OTA Case No. 18042886  
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**OPINION ON PETITION FOR REHEARING**

Representing the Parties:

For Appellant: Pacita I. Pio

For Respondent: Joel Smith, Tax Counsel

For Office of Tax Appeals: Andrea Long, Tax Counsel

A. VASSIGH, Administrative Law Judge: On May 15, 2019, the Office of Tax Appeals (OTA) issued an Opinion sustaining respondent Franchise Tax Board’s (FTB) proposed assessments for the 2011 and 2012 tax years, which are based on federal adjustments by the Internal Revenue Service (IRS). Appellant Pacita I. Pio then filed a petition for rehearing pursuant to California Revenue and Taxation Code section 19048.

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. (Cal. Code Regs., tit. 18, § 30604, subds. (a)-(e); see also *Appeal of Sjofinar Do* (2018-OTA-002P);<sup>1</sup> *Appeal of Wilson Development, Inc.* (94-SBE-007) 1994 WL 580654.) Upon consideration of the petition

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<sup>1</sup> Precedential decisions of OTA can be found on OTA’s website: < www.ota.ca.gov. >

for rehearing, we conclude that the grounds set forth therein do not constitute good cause for a new hearing.

In her petition for rehearing, appellant does not set forth specific grounds for a new hearing but repeats many of the same arguments that she presented to OTA during the initial appeal (i.e., she should not be liable for the proposed tax assessments because her prior tax preparer created an LLC without her knowledge). We have already addressed these arguments. Appellant also indicates that the IRS disallowed her claimed expenses at audit due to a lack of supporting documents. Appellant has not offered new evidence that she could not, with reasonable diligence, have discovered and produced prior to the decision of the appeal. Appellant does not contend that there was an accident or surprise that occurred during the proceedings and prior to the issuance of the written opinion that ordinary prudence could not have guarded against. Furthermore, appellant has not demonstrated any irregularity in OTA’s proceedings, established that the evidence was insufficient to justify OTA’s decision, or 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:  
*Amanda Vassigh*  
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Amanda Vassigh  
Administrative Law Judge

We concur:

DocuSigned by:  
*John O Johnson*  
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John O. Johnson  
Administrative Law Judge

DocuSigned by:  
*Daniel Cho*  
7B28A07A7E0A43D  
Daniel K. Cho  
Administrative Law Judge

Date Issued: 12/30/2019