

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:) OTA Case No. 18093691
D. KLEE)
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OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant: Dehra DiFiore-Moles,
Tax Appeals Assistance Program

For Respondent: Donna L. Webb, Staff Operations Specialist

E. S. EWING, Administrative Law Judge: On January 22, 2020, we issued an opinion sustaining respondent Franchise Tax Board’s action proposing additional tax of \$2,388, plus interest, for the 2014 tax year. Upon considering appellant D. Klee’s petition for rehearing (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 30604.

A rehearing may be granted where one of the following grounds exists and the substantial rights of the filing party (here, appellant) are materially affected: (a) an irregularity in the appeal proceedings which occurred prior to issuance of the written opinion and prevented fair consideration of the appeal; (b) accident or surprise which occurred during the appeal proceedings and prior to the issuance of the written opinion, which ordinary caution 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. (Cal. Code Regs., tit. 18, § 30604(a)–(e).)

Appellant asserts a rehearing is warranted, apparently because the opinion is contrary to law, and uses essentially the same arguments previously presented on appeal: that appellant eventually paid all of the taxes due; that appellant relied on a tax preparer to make sure the

payments were on time; and that respondent’s actions were not timely. However, we have fully addressed these assertions in our opinion, and, upon review, do not find the determinations in that opinion to be contrary to law. 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.

DocuSigned by:
Elliott Scott Ewing
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Elliott Scott Ewing
Administrative Law Judge

We concur:

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Alberto T. Rosas
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Alberto T. Rosas
Administrative Law Judge

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

Date Issued: 7/3/2020