

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:

C. SYKES) OTA Case No. 18124079
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)**OPINION ON PETITION FOR REHEARING**

Representing the Parties:

For Appellant:

C. Sykes

For Respondent:

Mira V. Patel, Tax Counsel


T. STANLEY, Administrative Law Judge: On February 28, 2020, this panel issued an Opinion sustaining Franchise Tax Board’s action proposing additional tax and imposing penalties, plus interest, for the 2015 taxable year. This panel also imposed a \$5,000 frivolous appeal penalty. Upon consideration of C. Sykes’ (appellant) 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 exist and the 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 filing 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); *Appeal of Do*, 2018-OTA-002P.)


Appellant asserts that a rehearing is warranted based on essentially the same arguments previously presented on appeal – i.e., that compensation for appellant’s services did not constitute gross income for tax purposes, and that only foreign-source income is taxable.


However, we have addressed these arguments in our Opinion, and, upon review, do not find the determinations in that Opinion to be unsupported by substantial evidence, nor that it is contrary to law. Appellant’s dissatisfaction with the Opinion 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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Teresa A. Stanley
Administrative Law Judge

We concur:

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Andrew J. Kwee
Administrative Law Judge

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Josh Lambert
Administrative Law Judge

Date Issued: 10/14/2020