

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:
Z. ALAWDI

) OTA Case No. 18032420
) CDTFA Case ID 856070
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)

OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant: Hassen Mohsen, Representative
For Respondent: Jason Parker, Chief of Headquarters Ops.

T. STANLEY, Administrative Law Judge: On May 20, 2020, the Office of Tax Appeals (OTA) issued an Opinion sustaining a decision issued by respondent California Department of Tax and Fee Administration (CDTFA), on a petition for redetermination filed by Z. Alawdi (appellant). CDTFA’s decision denied appellant’s petition for redetermination of CDTFA’s Notice of Determination (NOD) for \$37,904.07 of additional tax, plus applicable interest, and a negligence penalty of \$3,790.43 for the period October 1, 2010, through September 30, 2013. Appellant filed a timely petition for rehearing (PFR). We conclude that the grounds set forth therein do not establish a basis for granting a rehearing.

California Code of Regulations, title 18, section 30604(a)-(e) provides that a rehearing may be granted where one of the following grounds exists and the substantial rights of the complaining party are materially affected: (a) an irregularity in the proceedings by which the party was prevented from having a fair consideration of its case; (b) an 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; (c) newly discovered, relevant evidence, which the party could not, with reasonable diligence, have discovered and produced prior to the 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. (See also *Appeal of Do*, 2018-OTA-002P.)

Appellant has not argued that any of these grounds for a rehearing exist.¹ Each of appellant's bases for requesting a rehearing are relevant only to the CDTFA audit process that occurred six years ago, and not to the appeals process with OTA.


Appellant had a full opportunity to participate in this appeal. Appellant returned to the country after the NOD was issued and fired his then-current representative and hired his current representative, Mr. Mohsen. Mr. Mohsen then represented appellant throughout CDTFA's appeals process. Appellant and his representative were given every opportunity to present evidence to persuade us that an adjustment to CDTFA's determination was warranted. Mr. Mohsen returned a Response to Notice of Oral Hearing, after which OTA issued to appellant a Notice of Telephonic Prehearing Conference and a Notice of Oral Hearing; both documents containing dates and times for a prehearing conference and oral hearing. The notice of the prehearing conference was mailed 55 days in advance, and the oral hearing notice was mailed 75 days in advance. Neither appellant nor appellant's representative attended either one of these events.² Following the noticed prehearing conference, OTA issued Minutes and Orders that included instructions for appellant's participation at the oral hearing and allowed an additional opportunity to submit evidence that had not been previously provided to OTA. No evidence was received from appellant, and as noted in OTA's Opinion, the record only contains evidence submitted by CDTFA because appellant chose not to provide any documents or appear at the hearing and testify.

A rehearing may not be granted based on an error in CDTFA's processes or in appellant's representation during the audit. As noted above, appellant was afforded ample opportunity to meaningfully participate in this appeal and chose not to. That choice does not create a ground for a rehearing of this appeal.


¹ Appellant's PFR is based on the following: 1) appellant was "long overseas" and was never provided due process during the audit process with CDTFA; 2) appellant has requested a reaudit with CDTFA; and 3) appellant's "prior representative [who handled the audit with CDTFA] has been fired due to lack of communication between himself and the CDTFA." None of these contentions constitute a basis for granting a rehearing with OTA, which is an independent agency not affiliated with CDTFA.

² OTA attempted to contact appellant's representative when he failed to appear at the prehearing conference. Appellant's representative was not at the office number he provided and did not answer his mobile phone number.

The PFR is therefore denied.

DocuSigned by:

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Teresa A. Stanley
Administrative Law Judge

We concur:

DocuSigned by:

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Michael F. Geary
Administrative Law Judge

DocuSigned by:

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Daniel K. Cho
Administrative Law Judge

Date Issued: 11/18/2020