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OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:	) OTA Case No. 18042649
L. HSU	)
	)
	)
	)
	)

OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant: L. Hsu

For Respondent: Christopher T. Casselman, Tax Counsel IV

R. TAY, Administrative Law Judge: On December 17, 2020, the Office of Tax Appeals issued an opinion (Opinion) in which we largely sustained the reduction by Franchise Tax Board (respondent) of appellant's net operating loss (NOL) carryover to the 2011 tax year, except we modified it by allowing appellant's NOL carryover of $157,080 from 2008. Appellant filed a timely petition for rehearing (petition).

A rehearing may be granted where one of the following six grounds exists, and the substantial rights of the filing party (here, appellants) are materially affected: (1) an irregularity in the appeal proceedings which occurred prior to issuance of the Opinion and prevented fair consideration of the appeal; (2) an accident or surprise which occurred during the appeal proceedings and prior to the issuance of the Opinion, which ordinary caution could not have prevented; (3) newly discovered, relevant evidence, which the filing party could not have reasonably discovered and provided prior to issuance of the Opinion; (4) insufficient evidence to justify the Opinion; (5) the Opinion is contrary to law; or (6) an error in law in the appeals hearing or proceeding. (Cal. Code Regs., tit. 18, § 30604(a)(1)-(6).)

Appellant argues that he is entitled to a rehearing because of newly discovered, relevant evidence, which he could not have reasonably discovered and provided prior to our issuance of the Opinion. With his petition, however, appellant provides a number of documents that he

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already submitted to OTA or that he submitted to respondent at protest. These documents that appellant already provided to OTA or respondent, are clearly not newly discovered evidence.

The remainder of the documents appellant submitted with his petition includes copies of checks, bank statements, gift letters and a schedule of money transfers between appellant and Grandpark Corporation. Appellant does not show that these documents are newly discovered, nor does he provide a valid explanation as to why the documents could not reasonably have been discovered prior to the issuance of the Opinion.[1] We also find no evidence or reasons in the record to support appellant's request for a rehearing. Consequently, we find no valid ground to grant appellant's petition.

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Richard Tay
Administrative Law Judge

We concur:

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Cheryl L. Akin
Administrative Law Judge

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Tommy Leung
Administrative Law Judge

Date Issued: 4/7/2021

[1] After we closed the briefing period for the petition, appellant improperly submitted a brief, which we rejected. We note that appellant submitted no additional evidence with the brief and no explanation to support his arguments in the petition that this additional evidence could not reasonably have been discovered and provided prior to the issuance of the Opinion.