

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:
J. GALLO

) OTA Case No. 18011296
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OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant: J. Gallo

For Respondent: Brian Werking, Tax Counsel III

A. LONG, Administrative Law Judge: On January 6, 2021, the Office of Tax Appeals (OTA) issued an Opinion modifying respondent Franchise Tax Board’s action in accordance with its concession on appeal, but otherwise sustaining its action. J. Gallo (appellant) timely filed a petition for rehearing (PFR) in this matter.

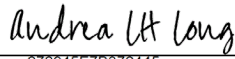
OTA may grant a rehearing when one of the following grounds is met and materially affects the substantial rights of the party seeking a rehearing: (1) an irregularity in the proceedings that prevented the fair consideration of the appeal; (2) an accident or surprise that occurred, which ordinary caution 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 written opinion; (4) insufficient evidence to justify the written opinion; (5) the opinion is contrary to law; or (6) an error in law that occurred during the proceedings. (Cal. Code Regs., tit. 18, § 30604(a)(1)-(6); *Appeal of Do*, 2018-OTA-002P.)

Appellant brings this PFR pursuant to California Code Regulations, tit. 18, (Regulation) section 30604(d)¹, which states two grounds: insufficiency of the evidence or the Opinion is contrary to law. In support of her PFR, appellant raises the same arguments in her PFR as she


¹ Appellant cites to Regulation section 30604(d); however, effective March 1, 2021, Regulation 30604(d) was renumbered to 30604(a)(4) and (5).


did in the underlying appeal, stating that the Notice of Proposed Assessment is wrongly calculated and therefore, should be voided and withdrawn.

OTA has already addressed and rejected appellant’s arguments in the Opinion. Appellant’s dissatisfaction with the Opinion and attempt to reargue the same issue does not constitute grounds for a rehearing. (*Appeal of Smith*, 2018-OTA-154P.) Appellant’s PFR is denied.

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Andrea L.H. Long
Administrative Law Judge

We concur:

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Cheryl L. Akin
Administrative Law Judge

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Richard Tay
Administrative Law Judge

Date Issued: 7/22/2021