

**OFFICE OF TAX APPEALS
STATE OF CALIFORNIA**

In the Matter of the Appeal of:)
S. MAXIMUS)
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OTA Case No. 20066272

OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant: S. Maximus

For Respondent: Pamela W. Bertani, Tax Counsel III

For the Office of Tax Appeals: Julian Adams, Graduate Student Assistant

O. AKOPCHIKYAN, Administrative Law Judge: On September 14, 2022, the Office of Tax Appeals (OTA) issued an Opinion sustaining the actions of respondent Franchise Tax Board (FTB) proposing additional tax of \$2,016, \$1,691, and \$1,596 for the 2015, 2016, and 2017 tax years, respectively, plus applicable interest. In the Opinion, OTA held that appellant had not shown error in FTB’s disallowance of various itemized deductions for the 2015, 2016, and 2017 tax years.

Appellant timely filed a petition for rehearing (petition) under Revenue and Taxation Code (R&TC) section 19048. Upon consideration of appellant’s petition, OTA concludes appellant has not established a basis for rehearing.

OTA may grant a rehearing where one of the following grounds is met and the substantial rights of the filing party (here, appellant) are materially affected: (1) an irregularity in the appeal proceedings which occurred prior to issuance of the Opinion and prevented the 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); *Appeal of Do*, 2018-OTA-002P.)

Appellant asserts a rehearing is warranted based on essentially the same arguments as previously presented on appeal—namely, appellant should be allowed to deduct amounts paid for her dental implants because they were necessary for her to perform her job as a nursing instructor. Appellant also raises similar equitable reasons for allowing her to deduct these itemized deductions—namely, there was no malice on her part and she faced hardships due to the COVID-19 pandemic.

OTA finds that these arguments do not satisfy any of the grounds set forth above for granting a rehearing. Appellant’s dissatisfaction with the Opinion and attempt to reargue the same issue do not constitute a valid basis for a rehearing. (*Appeal of Graham and Smith*, 2018-OTA-154P.) Accordingly, appellant’s petition is denied.

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Ovsep Akopchikyan
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Ovsep Akopchikyan
Administrative Law Judge

We concur:
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Andrew J. Kwee
Administrative Law Judge

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Veronica I. Long
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Veronica I. Long
Administrative Law Judge

Date Issued: 6/15/2023