

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of:	)	OTA Case No. 21129218
<b>R. GARWOOD AND</b>	)	
<b>L. GARWOOD</b>	)	
_____	)	

**OPINION ON PETITION FOR REHEARING**

Representing the Parties:

For Appellants: R. Garwood and L. Garwood

For Respondent: Eric R. Brown, Attorney


A. LONG, Administrative Law Judge: On May 16, 2023, the Office of Tax Appeals (OTA) issued an Opinion sustaining the actions of respondent Franchise Tax Board (FTB) denying appellants' claim for refund. In the Opinion, OTA held the following: appellants did not timely file a claim for refund for the 2016 tax year; appellants did not show error in FTB's denial of appellants' claims for refund for the 2017 through 2020 tax years; and appellants appeal was frivolous. Appellants timely filed a petition for rehearing (petition) under Revenue and Taxation Code (R&TC) section 19048. Upon consideration of appellants' petition, OTA concludes appellants have not established a basis for rehearing.

OTA may grant a rehearing where 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 during the appeal proceedings and prior to the issuance of the Opinion, which ordinary caution could not have prevented; (3) newly discovered, material to the appeal, which the 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 OTA appeals hearing or proceeding. (Cal. Code Regs., tit. 18, § 30604(a)(1)-(6); *Appeal of Do*, 2018-OTA-002P.

Appellants do not state a basis for bringing this petition. Instead, appellants raise the same frivolous arguments in their petition as they did in the underlying appeal, stating that their earnings are private and therefore not taxable and citing to various federal authorities that they believe support their position. Appellants also dispute the characterization of their arguments as frivolous.

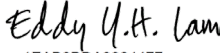
OTA has already addressed and rejected appellants’ argument in the Opinion as frivolous and without merit. (See, e.g., *Appeal of Reed*, 2021-OTA-326P; *Appeal of Balch*, 2018-OTA-159P; *Appeals of Wesley, et al.* (2005-SBE-002) 2005 WL 3106917; *Appeal of Myers* (2001-SBE-001) 2001 WL 37126924; *Appeal of Castillo* (92-SBE-020) 1992 WL 202571; *Appeals of Bailey* (92-SBE-001) 1992 WL 44503; *Appeals of Dauberger, et al.* (82-SBE-082) 1982 WL 11759.) Appellants’ dissatisfaction with the Opinion and attempt to reargue the same issue does not constitute grounds for a rehearing. (*Appeal of Graham and Smith*, 2018-OTA154P.)

Appellants’ petition is denied.

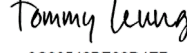
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Andrea L.H. Long  
Administrative Law Judge

We concur:

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Eddy Y.H. Lam  
Administrative Law Judge

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Tommy Leung  
Administrative Law Judge

Date Issued: 9/21/2023