

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 221011698
C. ELDRIDGE)
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OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant: C. Eldridge
For Respondent: Eric R. Brown, Attorney

K. LONG, Administrative Law Judge: On September 13, 2023, the Office of Tax Appeals (OTA) issued an Opinion sustaining the action of respondent Franchise Tax Board (FTB) proposed assessment of tax of \$1,637, a late filing penalty of \$409.25, and applicable interest for the 2015 tax year. OTA also imposed a \$500 frivolous appeal penalty.

In the Opinion, OTA considered whether appellant had established error in FTB’s proposed additional tax assessment, which was based on information obtained from the IRS. OTA found that FTB’s determination was reasonable and rational. In addition, OTA found that appellant failed to file a valid return, and that appellant’s arguments with respect to her income tax liability were frivolous. Accordingly, OTA held that appellant did not establish error in FTB’s proposed additional tax assessment and that the late filing penalty should not be abated. 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 that appellant has not established a basis for rehearing.

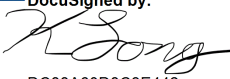
OTA may grant a rehearing where one of the following grounds is met and materially affects the substantial rights of the party seeking a rehearing: (1) an irregularity in the proceedings which occurred prior to issuance of the Opinion and prevented the fair consideration of the appeal; (2) an accident or surprise, occurring during the appeal proceedings and prior to the issuance of the Opinion, which ordinary caution could not have prevented;

(3) newly discovered evidence, 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 in the OTA appeals hearing or proceeding. (Cal. Code Regs., tit. 18, § 30604(a)(1)-(6); *Appeal of Do*, 2018-OTA-002P.)

Appellant's petition fails to identify any of these grounds for rehearing. Instead, appellant appears to assert that OTA does not have the authority to administer the tax appeal. However, OTA is vested with all of the duties, powers, and responsibilities necessary or appropriate to conduct appeals hearings and issue a written opinion for each appeal decided. (Gov. Code §§ 15672, 15674.) As such, appellant's argument is without merit.


OTA has already addressed and rejected appellant's arguments in the Opinion as frivolous and without merit. (See, e.g., *Appeal of Reed*, 2021-OTA-326P; *Appeal of Balch*, 2018-OTA-159P.) Appellant's dissatisfaction with the Opinion and attempt to reargue the same issue does not constitute grounds for a rehearing. (*Appeal of Graham and Smith*, 2018-OTA-154P.)

Appellant's petition is denied.

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Keith T. Long
Administrative Law Judge

We concur:

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Sheriene Anne Ridenour
Administrative Law Judge

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Josh Lambert
Administrative Law Judge

Date Issued: 12/12/2023