

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 230312796
J. VEIKOS)
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OPINION ON PETITION FOR REHEARING

Representing the Parties:

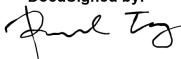
For Appellant: J. Veikos
For Respondent: Ariana Macedo, Graduate Legal Assistant

R. TAY, Administrative Law Judge: On January 5, 2024, the Office of Tax Appeals (OTA) issued an Opinion sustaining the action of respondent Franchise Tax Board (FTB) proposing an assessment of additional tax for the 2018 tax year. In the Opinion, OTA held appellant had not shown FTB erred in denying the California subtraction in the amount of \$138,582 because appellant had not shown he was entitled to a California subtraction of that amount. 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 there is no basis for rehearing.


OTA may grant a rehearing where one of the following grounds exists and materially affects the substantial rights of the party seeking a rehearing: (1) an irregularity in the appeal proceedings that prevented the fair consideration of the appeal; (2) an accident or surprise that occurred during the appeal proceeding, which ordinary caution could not have prevented; (3) newly discovered, material 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).)

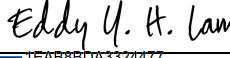
In his petition, appellant does not state specifically which of the six grounds is the basis for his petition. Rather, appellant argues he was already taxed on the \$138,582, so FTB erred in including that amount in his California adjusted gross income. This argument was considered and rejected in the Opinion, and does not constitute grounds for a rehearing. (See *Appeal of Graham and Smith*, 2018-OTA-154P.) Notably, appellant’s W-2 from Pacific Power & Systems Inc. shows appellant did have tax withheld from the \$138,582 during 2018. However, appellant included this withholding on his California income tax return, and because appellant subtracted \$138,582 from his California adjusted gross income, appellant received a sizable refund of the amount originally withheld. Since OTA found the subtraction was erroneous, FTB’s proposed assessment represents a return of the amount refunded for the 2018 tax year.

Appellant points to no other basis for a rehearing, and OTA also finds no grounds to grant appellant’s petition. Accordingly, appellant’s petition is denied.

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Richard Tay
Administrative Law Judge

We concur:

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Andrew Wong
Administrative Law Judge

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Eddy Y.H. Lam
Administrative Law Judge

Date Issued: 5/29/2024