

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:)	OTA Case No. 230914423
S. ORLASKI)	
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OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant: S. Orlaski

For Respondent: Ariana Macedo, Graduate Legal Assistant

V. LONG, Administrative Law Judge: On August 15, 2024, the Office of Tax Appeals (OTA) issued an Opinion sustaining the action of respondent Franchise Tax Board (FTB) denying appellant's claim for refund. In the Opinion, OTA held that appellant's claim for refund for the 2018 tax year was barred by the statute of limitations.

On September 5, 2024, appellant timely filed a petition for rehearing (petition) with OTA under Revenue and Taxation Code (R&TC) section 19334 requesting a reduced claim for refund. Upon consideration of appellant's petition, OTA concludes that the grounds set forth in this petition do not constitute a basis for granting a new hearing.

OTA will grant a rehearing where one of the following grounds for a rehearing exists and materially affects the substantial rights of the party seeking a rehearing: (1) an irregularity in the appeal proceedings which occurred prior to issuance of the Opinion and prevented 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 law in the OTA appeals hearing or proceeding. (Cal. Code Regs., tit. 18, § 30604(a)(1)-(6); *Appeal of Shanahan*, 2024-OTA-040P.)

Appellant's petition does not set forth specific grounds for a new hearing, but requests reconsideration based on essentially the same arguments as previously presented on appeal-

namely, that appellant is waiting for a refund from the IRS and that she was not aware of the statute of limitations for filing a claim for refund. Appellant's petition states that she would be willing to accept a 25 percent reduction of her claim for refund, and that she is currently undergoing treatment for cancer.

OTA finds these arguments do not satisfy any of the grounds set forth above for granting a rehearing. As stated in the Opinion, except in very limited situations not present here, there is no reasonable cause or equitable basis for suspending the statute of limitations. (*Appeal of Benemi Partners*, 2020-OTA-144P.) Appellant's dissatisfaction with the Opinion and attempt to reargue the same issue does not constitute a valid basis for a rehearing. (*Appeal of Graham and Smith*, 2018-OTA-154P.) Accordingly, appellant's petition is denied.

Signed by:



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Veronica I. Long
Administrative Law Judge

We concur:

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Tommy Leung
Administrative Law Judge

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Erica Parker
Hearing OfficerDate Issued: 12/4/2024