



DISAGREEING WITH OTA

Petition for Rehearing

If you disagree with the written Opinion you may file a request that your appeal be reheard with Office of Tax Appeals (OTA). The disagreement must be based on one of the following grounds;

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.

A request made based on these grounds, is called a petition for rehearing, and it must be filed no more than 30 days after the OTA written Opinion is issued. Petitions are granted only under limited circumstances.

If either you or the tax agency files a petition for rehearing, the non-filing party has 30 days to respond. The petition will be reviewed by the lead panel member from your original appeal and two new panel members who were not involved in the initial decision. This new panel will review your petition, decide whether to grant or deny it, and issue a written Opinion explaining their decision. This process is the same for appeals in the Small Case Program.

Only one petition for rehearing may be filed in an appeal. You may file your petition for rehearing through the Office of Tax Appeals Portal (OTAP).

Alternatively, you can send your petition for rehearing by the following methods:

MAIL: State of California, Office of Tax Appeals
P.O. Box 989880
West Sacramento, CA 95798-9880
FAX: (916) 492-2089

If a rehearing is granted, you will have the opportunity to submit further documents and information, which will be examined by the panel that granted your rehearing. As with your initial appeal, you may request or waive an oral hearing, and the new panel will issue a new written Opinion.

If your petition for rehearing is denied, the original Opinion and the Opinion on Petition for Rehearing will both be published on OTA's website, and your appeal becomes final.

Filing an Action in Superior Court

An appeal with OTA is the final step in the administrative process. If you do not agree with OTA's Opinion, you may file an action in the California Superior Court based on the following process:

- For an appeal that does not involve a claim for refund, you can pay the tax liability and file a claim for refund with the tax agency. If the tax agency denies your claim, you can file an action against the tax agency in California Superior Court within 90 days of the denial of your claim for refund.
- For an appeal involving a denial of a claim for refund, you can file an action in California Superior Court within 90 days of OTA's Opinion becoming final.

The standard of judicial review in Superior Court is review 'de novo,' meaning the Superior Court may substitute its own judgement in determining the resolution of your case.

Filing an Action in Superior Court

An appeal with OTA is the final step in the administrative process. If you do not agree with OTA's Opinion, you may file an action in the California Superior Court based on the following process:

- *For an appeal that does not involve a claim for refund, you can pay the tax liability and file a claim for refund with the tax agency. If the tax agency denies your claim, you can file an action against the tax agency in California Superior Court within 90 days of the denial of your claim for refund.*
- *For an appeal involving a denial of a claim for refund, you can file an action in California Superior Court within 90 days of OTA's Opinion becoming final.*

The standard of judicial review in Superior Court is review 'de novo,' meaning the Superior Court may substitute its own judgement in determining the resolution of your case.