

**OFFICE OF TAX APPEALS  
STATE OF CALIFORNIA**

In the Matter of the Appeal of: )  
**G. GENTRY** ) OTA Case No. 22029732  
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**OPINION ON PETITION FOR REHEARING**

Representing the Parties:

For Appellant: G. Gentry  
For Respondent: Brad J. Coutinho, Ass't Chief Counsel

T. LEUNG, Administrative Law Judge: On March 11, 2025, the Office of Tax Appeals (OTA) issued an Opinion sustaining the action of the Franchise Tax Board (respondent) denying appellant's claim for innocent spouse relief (ISR). In the Opinion, the panel held that appellant did not show that she was entitled to ISR for the 2017 taxable year.

On April 10, 2025, appellant filed a petition for rehearing (petition) with OTA under Revenue and Taxation Code (R&TC) section 19048 based on additional documentation (i.e., specific sections of a trust agreement and medical information). Upon consideration of appellant's petition, this panel concludes that the ground set forth in the petition does not constitute a basis for granting a new hearing.

A rehearing will be granted where there is newly discovered evidence, material to the appeal, which the party could not have reasonably discovered and provided prior to issuance of the Opinion, and which materially affects the substantial rights of the party seeking a rehearing. In the context of newly discovered evidence, courts have concluded that new evidence is material when it is likely to produce a different result. (See Cal Code Regs., tit. 18, § 30604(a)(3); *Santillan v. Roman Catholic Bishop of Fresno* (2012) 202 Cal.App.4th 708, 728; *Hill v. San Jose Family Housing Partners, LLC* (2011) 198 Cal.App.4th 764.)

As the Opinion notes, appellant was asked by both respondent and OTA to submit additional evidence to support her ISR claim. Specifically, OTA asked appellant if she inherited, received a community property interest in, or otherwise received any assets or property from Mr. Gentry and/or his trust upon his death, and whether she applied for ISR from the IRS. Appellant

did not respond to these requests. The documentation submitted with this petition apparently pre-dates this appeal and cannot be characterized as “new.” Moreover, these documents do not address all of the questions posed to appellant and, thus, cannot be said to be “material” to this appeal.

Accordingly, this petition cannot be granted.

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*Tommy Leung*  
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Tommy Leung  
Administrative Law Judge

We concur:  
DocuSigned by:  
*Erica Parker*  
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Erica Parker  
Hearing Officer

Signed by:  
*Josh Lambert*  
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Josh Lambert  
Administrative Law Judge

Date Issued: 9/18/2025