

**OFFICE OF TAX APPEALS**  
**STATE OF CALIFORNIA**

In the Matter of the Appeal of: ) OTA Case No. 230713855  
A. KESHISHIAN AND )  
E. KESHISHIAN )  
\_\_\_\_\_ )

**OPINION ON PETITION FOR REHEARING**

Representing the Parties:

For Appellants: Todd Reznik, CPA  
For Respondent: Noel Garcia-Rosenblum, Attorney

S. KIM, Administrative Law Judge: On June 11, 2025, the Office of Tax Appeals (OTA) issued an Opinion sustaining the action of the Franchise Tax Board (respondent) denying appellants' claim for refund of \$22,136.13 for the 2021 tax year. In the Opinion, OTA held that appellants failed to demonstrate reasonable cause to abate the late payment penalty and failed to establish a basis to abate the underpayment of estimated tax penalty (estimated tax penalty).

On July 10, 2025, appellants timely filed a petition for rehearing (petition) with OTA under Revenue and Taxation Code (R&TC) section 19334 on the basis that OTA did not take into consideration appellants' history of timely tax payments and that appellants' underpayment for the 2021 tax year was a first-time occurrence. Upon consideration of appellants' 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.)

Appellants do not contend that one of the six grounds for granting a rehearing exists in this case. Instead, appellants assert that the California legislature changed the law in 2022 to allow for first-time abatement of penalties for taxpayers with good payment history. However, R&TC section 19132.5, which allows taxpayers to request a one-time abatement of a timeliness penalty, applies to requests for abatement made for taxable years beginning on or after January 1, 2022. The tax year at issue in this appeal is 2021, and thus, one-time penalty abatement under R&TC section 19132.5 does not apply for the late payment penalty. While appellants concede that R&TC section 19132.5 was not effective for the 2021 tax year, they argue that the legislature was aware of the unfairness of imposing such penalties on otherwise compliant taxpayers. Nonetheless, OTA does not have statutory authority to allow a one-time abatement of a timeliness penalty under R&TC section 19132.5 for a tax year prior to the effective date of the statute. Finally, the estimated tax penalty is not a timeliness penalty, and thus, one-time abatement under R&TC section 19132.5 would not apply even if the penalty was for a tax year beginning on or after January 1, 2022. Based on the foregoing, OTA finds that appellants have not satisfied the requirements for granting a rehearing, and appellants' petition is hereby denied.

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*Steven Kim*  
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Steven Kim  
Administrative Law Judge

We concur:

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*Sara A. Hosey*  
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Sara A. Hosey  
Administrative Law Judge

DocuSigned by:  
*Amanda Vassigh*  
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Amanda Vassigh  
Administrative Law Judge

Date Issued: 11/5/2025