

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of: I. ALWAREETH, dba Auto Salvage Plus))))))	OTA Case No.: 230513410 CDTFA Case ID: 163-057
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OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant:	I. Alwareeth
For Respondent:	Jennifer Barry, Attorney

K. LONG, Administrative Law Judge: On June 12, 2025, the Office of Tax Appeals (OTA) issued an Opinion sustaining a decision issued by respondent California Department of Tax and Fee Administration (CDTFA).¹ CDTFA’s decision denied, in part, a petition for redetermination filed by I. Alwareeth, dba Auto Salvage Plus (appellant) of a Notice of Determination (NOD) dated July 20, 2017. The NOD holds appellant derivatively liable for the following liabilities of Auto Salvage Plus, LLC (ASP) as its predecessor: tax of \$62,307.15, plus applicable interest, and a penalty of \$6,230.72 for the period January 1, 2013, through December 31, 2015. After issuing the NOD, CDTFA ordered a reaudit to remove the liabilities relating to the first quarter of 2013 (1Q13) through 1Q14 from appellant’s derivative liability because the statute of limitations for CDTFA to issue a determination for those quarters expired. Therefore, the relevant period in this appeal is April 1, 2014, through December 31, 2015 (liability period).

In the Opinion, OTA considered two issues. First, OTA considered whether appellant was liable as a predecessor for the unpaid liabilities of ASP. Second, OTA considered whether any reductions to the taxable measure were warranted, specifically reviewing the following:

¹ Sales and use taxes were formerly administered by the State Board of Equalization (board). In 2017, functions of the board relevant to this case were transferred to CDTFA. (Gov. Code, § 15570.22.) For ease of reference, when this Opinion refers to events that occurred before July 1, 2017, “CDTFA” shall refer to the board.

disallowed claimed sales for resale;² disallowed bad debt deductions; and unreported taxable sales of gasoline and diesel fuel.

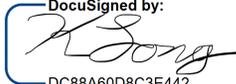
On July 13, 2025, appellant timely petitioned for a rehearing with OTA on the basis of newly discovered evidence. Appellant's contentions on petition for rehearing (PFR) appear only related to the disallowed claimed sales for resale. Specifically, appellant asserts that he "exited the retail car sales in early 2014, but [he] was charged for sales tax that did not process through [him]." Appellant states that he "has the sales slip transfer that shows that cars were sold by other dealership[s], and sales tax was collected by them." In support of these contentions, appellant provided five wholesale vehicle reports and six vehicle/vessel transfer and reassignment forms (reassignment forms). OTA concludes that the grounds set forth in this petition do not constitute a basis for granting a new hearing.

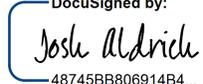
OTA will grant a rehearing where one of the following grounds for a rehearing exists and materially affects the substantial rights of the party seeking a rehearing: (1) an irregularity in the appeal proceedings which occurred prior to issuance of the Opinion and prevented fair consideration of the appeal; (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).) It is appropriate for OTA to look to Code of Civil Procedure section 657 and applicable caselaw as relevant guidance in determining whether a ground has been met to grant a new hearing. (*Appeal of Wilson Development, Inc.* (94-SBE-007) 1994 WL 580654.)

To warrant a new hearing on the ground of newly discovered material evidence, the petitioning party must show that the proffered evidence was newly discovered by the petitioning party, who could not have reasonably discovered and provided such evidence prior to issuance of the Opinion, and that the evidence is material to the appeal. (Cal. Code Regs., tit. 18, § 30604(a)(3).) 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 *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.)

² The Opinion discussed this audit item in the context of unreported taxable sales of vehicles. However, the dispute was whether appellant's unreported sales were in fact nontaxable sales for resale.

As discussed above, appellant’s PFR included five wholesale vehicle reports and six reassignment forms. These appear to be contemporaneous business documents completed at the time of a vehicle’s sale. Appellant has not explained why he could not have reasonably discovered these documents prior to the Opinion’s issuance. Further, according to the audit workpapers, CDTFA reviewed and rejected appellant’s wholesale reports during the audit because they conflicted with Report of Sale documents filed with the Department of Motor Vehicles. And finally, OTA notes that each of the reassignment forms are dated during 2013, which is outside of the liability period. Thus, even if appellant’s submission was newly discovered, it is unlikely to produce a different result (i.e., not material). Accordingly, OTA finds no basis to grant a rehearing.

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Keith T. Long
Administrative Law Judge

We concur:
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Josh Aldrich
Administrative Law Judge

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Andrew Wong
Administrative Law Judge

Date Issued: 11/12/2025