2026-OTA-414
Nonprecedential

OFFICE OF TAX APPEALS

STATE OF CALIFORNIA

In the Matter of the Appeal of:) OTA Case No. 220610633

W. CHUA AND
L. CHUANG

OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellants: Cruz Saavedra, Attorney

For Respondent: David Hunter, Attorney

A. VASSIGH, Administrative Law Judge: On June 4, 2025, the Office of Tax Appeals (OTA) issued an Opinion sustaining the action of respondent Franchise Tax Board (FTB) proposing additional tax of $459,178 for the 2015 tax year, $32,168 for the 2016 tax year, and $5,232 for the 2017 tax year, plus applicable interest for all three tax years. In the Opinion, OTA held that W. Chua and L. Chuang (appellants) did not properly claim theft loss deductions on their personal income tax returns for the 2015, 2016, and 2017 tax years. OTA concluded that appellants had not established that it was them and not “Chua and Chuang, Inc., A Medical Corporation” (CCMC), the corporation appellants had formed, that had sustained the theft losses.

On July 3, 2025, appellants timely filed a petition for rehearing (petition) with OTA under Revenue and Taxation Code (R&TC) section 19048 on the basis that OTA’s opinion is contrary to law. Upon consideration of appellants’ petition, OTA concludes that the ground(s) set forth in this petition does 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.)

To find that the Opinion is contrary to law, OTA must determine whether the Opinion is unsupported by any substantial evidence. (*Appeals of Swat-Fame, Inc., et al*., 2020-OTA-045P.) The relevant question is not over the quality or nature of the reasoning behind the Opinion, but whether the Opinion can or cannot be valid according to the law. (*Ibid*.) The contrary to law standard of review involves reviewing the Opinion for consistency with the law. (Cal. Code Regs., tit. 18, § 30604(b).)

Appellants contend that the OTA opinion is contrary to law based on their assertion that appellants personally sustained a theft loss for medical services payments made payable personally (by check) to appellants that were embezzled and never deposited into CCMC's account.[1] The evidence in the record shows that money was embezzled from CCMC. The embezzlement was reported to the police as a theft against CCMC; and it was CCMC, not appellants, that pursued a creditor's claim in a bankruptcy court filing. It was also CCMC, and not appellants, that sued the former employee who embezzled the funds. In CCMC's lawsuit against the former employee, appellant-husband, Dr. Chua, provided a sworn declaration, under penalty of perjury, confirming that the funds were stolen from CCMC. At the OTA hearing, appellants' representative explained that the stolen funds were for medical services rendered by appellants "in the capacity of owners and officers of the practice." It is clear that the embezzled funds were payment for medical services provided by appellants on behalf of CCMC.

[1] Appellants further contend that such losses may be estimated under the Cohan rule to larger amounts to cover the entire period of the embezzlement. (*Cohan v. Commissioner* (2d Cir. 1930) 39 F.2d 540.) OTA concludes that the losses were sustained by CCMC, so it is not necessary for OTA to examine this contention as the matter of the amount of CCMC's losses is not relevant to appellants' appeal.

Accordingly, OTA finds that its decision is not contrary to law, and appellants have not shown grounds to grant a rehearing.

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Amanda Vassigh
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Amanda Vassigh
Administrative Law Judge

We concur:

Signed by:
Natasha Ralston
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Natasha Ralston
Administrative Law Judge

Signed by:
Josh Lambert
CB1F7DA37831416...
Josh Lambert
Administrative Law Judge

Date Issued: 4/29/2026