

OFFICE OF TAX APPEALS
STATE OF CALIFORNIA

In the Matter of the Appeal of:	)	OTA Case No. 250822983
P. CHAO	)	
	)	
	)	
	)	
	)	

OPINION ON PETITION FOR REHEARING

Representing the Parties:

For Appellant: P. Chao

For Respondent: Ariana Macedo, Attorney

T. STANLEY, Administrative Law Judge: On March 25, 2026, the Office of Tax Appeals (OTA) issued an Opinion sustaining the action of respondent Franchise Tax Board (FTB) proposing additional tax of \$137,531, a late-filing penalty of \$34,392.75, plus applicable interest for the 2022 taxable year. In the Opinion, OTA determined that appellant did not meet her burden to prove error in FTB's proposed assessment.

On March 28, 2026, appellant timely filed a petition for rehearing (petition) with OTA under Revenue and Taxation Code (R&TC) section 19048 on the basis that OTA did not read her brokerage statement correctly. Upon consideration of appellant's petition, OTA concludes that the ground 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 (Regulation), § 30604(a)(1)-(6) ; *Appeal of Shanahan*, 2024-OTA-040P.)

In support of her contention that OTA did not properly read her brokerage statement, appellant re-submitted a brokerage statement that she submitted in the underlying appeal, but with some items circled.¹ Appellant does not state a specific ground for rehearing so OTA will consider whether there was sufficient evidence to justify the Opinion.

To find that there was an insufficiency of the evidence to justify the Opinion pursuant to Regulation section 30604(a)(4), OTA must find that, after weighing the evidence in the record, including reasonable inferences based on that evidence, the panel clearly should have reached a different opinion. (Code Civ. Proc. § 657; *Appeals of Swat-Fame, et al.*, 2020-OTA-045P.) OTA considers the evidence in the light most favorable to the prevailing party (here, FTB). (*Appeals of Swat-Fame, et al.*, *supra*.)

In support of her petition, appellant re-submits an E*Trade Securities LLC statement from December 31, 2021. Appellant circles the amount of short-term realized gains of \$101,366.02 and claims that it supports her position that she only received distributions (deposits) of that amount, rather than the \$1,029,939.06 included in FTB's proposed assessment. However, appellant ignores the fact that on the same year-end statement, E*Trade Securities LLC reported gross proceeds of \$1,029,939.36, for which it could not identify whether the gross proceeds were distributed as short-term or long-term assets, nor what appellant's basis, if any, was in the securities sold. The Opinion gave appellant credit for the reported basis in the short-term securities sales of \$638,638.49. However, without additional supporting documentation, appellant failed to meet her burden to show that appellant was

¹ After briefing closed, appellant submitted a copy of an unsigned 2022 California tax return. OTA has jurisdiction only over FTB's Notice of Action on a proposed deficiency or denial of a claim for refund. (See Cal. Code Regs., tit. 18, § 30103(a)(1), (3).) As OTA stated in its acknowledgement letter, appellant may work directly with FTB regarding her newly filed return, which has no bearing upon whether a rehearing is warranted.

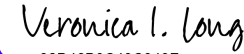
entitled to reduce the uncharacterized gross proceeds of \$1,029,939.36 by any amount.
Appellant, therefore, has not established a ground for a rehearing, and her petition is denied.

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Teresa A. Stanley
Administrative Law Judge

We concur:

Signed by:

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Veronica I. Long
Administrative Law Judge

Signed by:

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Kim Wilson
Hearing Officer

Date Issued: 7/23/2026