

**STATE OF CALIFORNIA  
STATE BOARD OF EQUALIZATION**

**170.0060**

April 29, 1965

Gentlemen:

This is to inform you of the position we have taken with respect to the petition for redetermination of "X". After reviewing your arguments and the various contracts and other documents in our file, we have concluded that "X" was an employee of "Y", not an independent contractor.

In the first place, the contract calls for "X"'s employment. The fact that the contract was for a long term at a fixed wage is indicative of the fact of employment. Even though "X" guaranteed no debts would be incurred, "Y" was entitled to the profits from the business. We also note that during this period "Y" entered a contract with the statewide organization, showing their control of the business. "X" apparently misrepresented himself in regard to employment and income taxes; but the greater preponderance of evidence shows that he was an employee.

Since this is our conclusion, we will recommend to the Board that the determination against your client was improper and the tax should be redetermined by cancellation of the assessment against "X".

Very truly yours

John H. Knowles  
Associate Tax Counsel

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