

**STATE BOARD OF EQUALIZATION**

LEGAL DIVISION (MIC:82)
450 N STREET, SACRAMENTO, CALIFORNIA
(P.O. BOX 942879, SACRAMENTO, CALIFORNIA 94279-0082)
Telephone: (916) 445-6496
FAX: (916) 323-3387

JOHAN KLEHS
First District, Hayward

DEAN F. ANDAL
Second District, Stockton

ERNEST J. DRONENBURG, JR.
Third District, San Diego

KATHLEEN CONNELL
Controller, Sacramento

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Acting Member
Fourth District, Los Angeles

E. L. SORENSEN, JR.
Executive Director

September 10, 1997

Ms. B--- W. B---
P.O. Box XXXXXX
---, California XXXXX-XXXX

Re: Permit No. SB -- XX-XXXXXX

Dear Ms. B---:

Your letter addressed to Frankie Bennett concerning the Board's refusal to accept a three party check as payment on your account has been forwarded to this office for response.

In your letter, you requested a written explanation from the Board's Legal Section as to the reason that the Board will not accept a check "written to two owners of a corporation from IRS."

Under California law, a negotiable instrument (such as a check) payable to two or more persons, if not in the alternative, is payable to all of them, and may be negotiated only by all of them. This rule covers an instrument payable to "X and Y." Both named payees must endorse in order to negotiate the instrument, except that one may be authorized to endorse for the other. The rule also covers the situation where the names of the payees are not connected by "and" or by any other word (See *Feldman Constr. Co. v. Union Bank* (1972) 28 Cal.App.3d 731, California Commercial Code § 3110(d).)

In certain circumstances, the rules which pertain to the Board's procedures (and that of state agencies generally) permit the Board to deposit checks received from taxpayers when certain entries made by the taxpayers on those checks are missing or are obvious errors. There is

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-2-

September 10, 1997
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no rule which permits the Board to deposit a check prepared by a third party and made payable to two payees, not in the alternative, when only one payee has endorsed the check.

Very truly yours,

Thomas J. Cooke
Tax Counsel

TJC/cmm

cc: Ms. Kaylyn Warren (MIC:95)