

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 001

June 27, 1958

FOREIGN CORPORATIONS: DOING BUSINESS

Syllabus:

Unqualified foreign corporations in a joint venture performing California construction jobs which they subcontract but over which they maintain supervision are deriving income from California sources and are subject to tax under the Corporation Income Tax.

The A Construction Company and the B Construction Company secured a government contract through a joint-venture bid under which they agreed to construct a transmission line within the State of California. The actual construction has been subcontracted to various California firms, but is supervised for the joint venture by a California partnership of construction engineers and, more recently, by direct supervision of an employee of the joint venture. Advice is requested as to whether the foreign corporations are subject to the Franchise Tax or the Corporation Income Tax.

Under the arrangement it is doubtful that we could sustain the position that the members of the joint venture are doing business in California within the purview of the Franchise Tax. In view of such doubt, it seems unnecessary to press for taxability under the Franchise Tax inasmuch as there is no question of a minimum tax involved nor is there a question of taxability prior to 1937, the first year for which the Corporation Income Tax was effective.

Regardless of taxability under the Franchise Tax, the activities of the joint venture, particularly in connection with the supervision of the construction, are sufficient to subject the corporations to Corporation Income Tax, in that they are deriving income from California sources.