

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 055

June 27, 1958

CORPORATION INCOME TAX: AGENTS IN STATE BUT NOT "DOING BUSINESS"
HEREIN

Syllabus:

Where the facts indicate a corporation has agents active in the state, but the activities do not amount to "doing business", the corporation is subject to the corporation income tax.

Taxpayer, a foreign corporation, is represented by a salesman in Los Angeles and one in San Francisco. They are not treated as employees for purposes of payroll taxes. They use the corporation letterheads with their names and addresses added as "district representative" and "district office". The corporation name is listed in the telephone book in both Los Angeles and San Francisco and on the building directory of the building where the representative maintains his office. The representatives handle other noncompetitive lines but not competitive lines and both pay all their own expenses. The Los Angeles representative has held a small quantity of consigned merchandise in his office out of which some orders have been filled. Advice is requested as to whether the corporation is subject to the franchise tax or corporation income tax.

The facts indicate that the salesmen are agents rather than independent dealers or brokers as these terms are used in Regulation 23040(b). Under the provision of Regulation 23040(b), the activities of these men in California, as agents of the corporation, are sufficient to render the corporation subject to the income tax. These activities plus the maintenance of a stock of goods here from which deliveries are made might be sufficient to render the corporation liable for the franchise tax. However, due to the fact the amount of orders filled out of the stock held in the Los Angeles office were comparatively insignificant (only about 3% of the orders were filled from this stock and the practice of storing goods in the Los Angeles office has been terminated) the corporation is liable for corporation tax rather than franchise tax.