

## CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 163

November 22, 1957

### TREATIES: TAXATION OF FOREIGN CORPORATIONS EXEMPT FROM FEDERAL TAXATION

#### Syllabus:

Foreign corporations exempt from taxation by the Federal government under treaties between the United States and foreign nations are subject to taxation by the States unless the treaty expressly prohibits taxation by the States.

Taxpayer, an entertainment group, was incorporated in France in 1953. After performances in other states one-half of the group came to California where they worked for thirty weeks in motion pictures. The corporation had been granted an exemption from Federal taxation under Article 3 of the Tax Convention with France. Advice is requested whether the corporation is subject to taxation under Chapter 2 of the Bank and Corporation Tax Law.

The services performed for the motion picture studios constitute "doing business" within the meaning of Section 23101 of the Bank and Corporation Tax Law. The compensation received is income from sources within this State and the corporation is taxable thereon unless the State's power to tax is prevented by Federal action. The Tax Convention with France contains no prohibition upon the States. Nowhere in the Convention, nor in any of the regulations issued under it, is any reference made to other treaties which might prohibit taxation by the States. In NS-5551 (3 Ops. Atty. Gen. 382), the Attorney General of the State of California ruled that a British corporation was subject to California corporate income tax despite the fact it was exempt from Federal income tax under an Executive Agreement between the United States and Great Britain. The Attorney General concluded that the Agreement did not extend to state taxes because the agreement only mentioned Federal income tax. Since there is no constitutional, statutory or treaty provision prohibiting the taxation of a French corporation, the taxpayer is subject to the tax imposed under the Bank and Corporation Tax Law.