



STATE OF CALIFORNIA  
**FRANCHISE TAX BOARD**  
**Legal Branch**  
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KATHLEEN CONNELL  
 Chair

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 Member

B. TIMOTHY GAGE  
 Member

June 6, 2000

Chief Counsel Ruling  
 2000-01

\*\*\*\*\*

RE: \*\*\*\*\*

Dear \*\*\*\*\*:

This is in response to your letter dated \*\*\*\*\*, requesting a Chief Counsel Ruling regarding the application of Revenue and Taxation Code section 17014, subdivision (d) to the above-referenced taxpayer.

As stated below, please note that we are not ruling on whether, under the facts as presented, \*\*\*\*\* is or is not a resident of California. We are only ruling on the proper interpretation, in the context of your specific request, to be given to the term "employment-related contract" as contained in the first sentence of Revenue and Taxation Code section 17014, subdivision (d).

Under the facts as presented, \*\*\*\*\* is a resident of and domiciled in the State of California. Pursuant to an "Independent Contractor Agreement" between \*\*\*\*\* will perform services in conjunction with the production of motion pictures to be filmed in \*\*\*\*\*.

You have stated that:

"If the taxpayer were an employee of \*\*\*\*\* rather than a self-employed individual rendering services in an independent contractor capacity, he would qualify to be considered 'outside the state for other than a temporary or transitory purpose,' since he is absent pursuant to an employment-related contract."

Thus, you have represented that \*\*\*\*\* would meet all requirements contained in Revenue and Taxation Code section 17014, subdivision (d) except for the question which is the subject of your request, i.e., whether the safe harbor contained in Revenue and Taxation Code section 17014, subdivision (d) would apply if \*\*\*\*\* "employment-related absence" resulted from services provided in a self-employed independent contractor capacity.

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Revenue and Taxation Code section 17014, subdivision (d), first sentence, provides:

For any taxable year beginning on or after January 1, 1994, any individual domiciled in this state who is absent from the state for an uninterrupted period of at least 546 consecutive days under an employment-related contract shall be considered outside this state for other than a temporary or transitory purpose. (Emphasis added)

By the use of the term "employment-related contract," the statute contemplates something in addition to the traditional employment contract (employer-employee) as the statutory language is more expansive in scope. While there is no specific history on this language, a reasonable reading of this provision leads to the conclusion that the term "employment-related contract" would include employment in the nature of an independent contractor.

Thus, for purposes of this Chief Counsel Ruling, we conclude an independent contractor relationship may be considered an "employment-related contract" under Revenue and Taxation Code section 17014, subdivision (d).

We are not ruling on \*\*\*\*\* residency status, as such a determination is factual in nature and is a question upon which we will not issue a ruling. (See FTB Notice 89-277). Also, we are not making a conclusion regarding the nature of the agreement between \*\*\*\*\* , but are accepting your representation of the Contract's nature for purposes of this Ruling only.

Please be advised that the tax consequences expressed in this Chief Counsel Ruling are applicable only to the named taxpayer and are based upon and limited to the facts you have submitted. In the event of a change in relevant legislation, or judicial or administrative case law, a change in federal interpretation of federal law in cases where our opinion is based upon such an interpretation, or a change in the material facts or circumstances relating to your request upon which this opinion is based, this opinion may no longer be applicable. It is your responsibility to be aware of these changes should they occur. This letter is a legal ruling by the Franchise Tax Board Chief Counsel within the meaning of Revenue and Taxation Code section 21012(a)(1). Please attach a copy of this letter and your request to the back of the appropriate return(s) (if any) when filed or any notices or inquiries which might be issued.

Very truly yours,

Terry Collins  
Supervising Tax Counsel