

STATE BOARD OF EQUALIZATION



Appeal Name: WILLIAM CONNELL

Case ID: \_\_\_\_\_ ITEM #: \_\_\_\_\_

Date: JULY 26, 2011 Exhibit No: \_\_\_\_\_

TP FTB DEPT **PUBLIC COMMENT**

# LAW OFFICE OF HERB FOX

CERTIFIED APPELLATE SPECIALIST • STATE BAR OF CA BOARD OF LEGAL SPECIALIZATION

www.foxappeals.com  
hfox@foxappeals.com

June 7, 2010

Via Facsimile (916) 327-2247 and U.S. Mail

Jill T. Bowers, Esq.  
CA Dept of Justice  
PO Box 944255  
1300 I Street, Ste 1101  
Sacramento, CA 95814

*Re: Connell v. Board of Equalization, Court of Appeal Case No. C061180*

Dear Ms. Bowers,

As you know from our telephone conversation of this afternoon, William Connell is filing a Request for Dismissal of the above-referenced appeal. A service copy of that Request is enclosed. In filing this Request for Dismissal prior to performance of the terms of the settlement agreement, Mr. Connell is abandoning that agreement.

I appreciate your professional courtesy throughout this proceeding.

Very truly yours,

  
Herb Fox

Cc: Client  
HF:dw

**STATEMENT OF PRINCIPLE**  
(Special Exemption From Tax Related Burdens)

On March 24, 1893, the State of California adopted an Act (the "ACT"), Exhibit A, that recognized that "... every soldier, sailor or marine of the United States, who is unable to obtain a livelihood by manual labor, shall have the right to hawk, peddle and vend any goods ....without payment of any license, tax, or fee whatsoever...." (emphasis added)\*.

By including the word, "whatsoever", the clear legislative intent was to remove ALL tax related burdens from this limited group of former military people.

Under the provisions of *California Code of Civil Procedure Section 1859 (Enacted 1872)*, Exhibit B, the intention of the legislature must be followed if at all possible.

However, subsequent, to the adoption of the ACT, other tax related acts were passed which did not specifically exempt this limited group from their provisions, and CONTRARY TO THE CLEAR INTENT OF THE LEGISLATURE, tax related burdens have been place on these former military people.

It is the position of this STATEMENT OF PRINCIPLE that, in the interests of justice and in keeping with the provisions of Section 1859 of the Code of Civil Procedure, the legislative intent of the ACT should be carried out and that all provisions of any law, state or local, that contradicts the clear intent of the ACT be modified so as to exempt this limited group from any state or local tax related burdens.

Specifically this STATEMENT OF PRINCIPLE is directed to the need to clarify Section 6051 (et seq.) of the Revenue and Taxation Code, copy attached as Exhibit C, to make it clear that the former military people who come within the provisions of the ACT are exempt from the requirements of collecting sales tax.

***Request is hereby made that the proper parties take necessary and proper action to modify Section 6051 of the Revenue and Taxation Code and its related provisions to comply with the intent of the legislature and the ACT by specifically exempting the former military people who come within the provisions of the ACT from the requirements of collecting sales tax.***

Respectfully submitted,

*William M Connell*

William Connell,  
US Army Veteran

\*A copy of Section 16102 of the Business and Professions Code that relates to this matter is attached as Exhibit D.

## CHAPTER CCXXXIV

*An Act to establish a uniform system of county and township governments.*

*(Approved March 24, 1893.)*

*The People of the State of California, represented in Senate and Assembly, do enact as follows:*

27. To license, for purposes of regulation and revenue, all and every kind of business not – prohibited by law, and transacted and carried on in such county, and all shows, exhibitions, and lawful games carried on therein; to fix the rates of license tax upon the same, and to provide for the collection of the same, by suit or otherwise; *provided*, that every honorably discharged soldier, sailor, or marine of the United States, who is unable to obtain a livelihood by manual labor, shall have the right to hawk, peddle, and vend any goods, wares, or merchandise, except spirituous, malt, vinous, or other intoxicating liquor, without payment of any license, tax, or fee whatsoever, whether municipal, county, or State; and the Board of Supervisors shall issue to such soldier, sailor, or marine without cost, a license therefore. A certificate of disability by a surgeon of the United States Army or Navy shall be sufficient proof of such disability, and a certificate of honorable discharge from the United States Army or Navy, or an exemplified copy thereof, shall be sufficient proof of such service and honorable discharge, and upon presentation a license shall be issued as aforesaid.