

June 15, 2010

SBOE

I believe the current S.B.O.E. members, all have the ability, power, integrity, wisdom, compassion, understanding and most importantly, the patriotism to bring my 17 year nightmare to closure. For me and the other Veterans who have come before the board; the time has come to end all of the confusion surrounding the Veterans Tax Exemption.

In the 1990's the seated S.B.O.E. members were given misleading, openly false, and untrue information regarding B & P Codes 16100, 16100.5 and 16102. All of the Veterans who came before the board were denied the Veterans Tax Exemption benefit that they all rightfully earned. I was just one of them.

I suggest, today, that this board take action so that:

- I and the other similarly situated Veterans receive their tax monies, which should have never been taken in the first place; returned to them.
- Void my previous hearings and those of my brother and sister Veterans.
- Combine my case with the other Veterans affected.

I request that the board see to it that all the Veterans so situated are taken care of. Basically I'm here today to collect a debt. This exemption has been described by the SBOE staff as a "political HOT Potato", and extremely "sensitive issue." Early in our statehood a unanimous vote, the Senate and Assembly, by enactment, expressed a firm resolve to take care of our honorable discharged Veterans. This past session our current Assembly and Senate by a unanimous vote updated that 1872 statute. Return to me all of my illegally taken money, my legal fees and my costs.

Sincerely,

William M. Connell



**RE: Veterans Tax Issue - Attorney General Attachment**

Friday, April 3, 2009 10:49 AM

From: "Pennington, Margaret" <Margaret.Pennington@boe.ca.gov>

To: "Linda Renee Fenton" <fentonlr@yahoo.com>

Mr. Connell,

I listened to your message left this morning. On April 1, I contacted Ms. Cazadd after reading your emails sent to the chair women and was told this below:

From Ms. Cazadd:

We sent the request letter together with a voluminous number of documents from and in support of Mr. Connell to the AG a couple of weeks ago. Included in these documents were items that the Legal Dept. had received from Mr. Connell and which expressly stated or reflected his legal argument(s) to the Board at various points in time.

Ms. Cazadd asked Robert Tucker to send me a copy of the letter sent to the AG and the attachments. I will let you know when I have this and we can discuss the issue more.

Margaret Pennington

**From:** Linda Renee Fenton [mailto:fentonlr@yahoo.com]  
**Sent:** Tuesday, March 24, 2009 11:19 AM  
**To:** LoFaso, Alan; Leonard, Bill; Pennington, Margaret  
**Cc:** Donald Wilson  
**Subject:** Veterans Tax Issue - Attorney General Attachment

SBOE

Betty Yee, Chair

Bill Leonard, Member

Kristine Cazadd

Ms. Susan Lee

Mr. Robert Tucker

Donald Wilson, Senate VA

This past week I provided your office with the case numbers of similarly situated veterans. So that we are all very clear on this, I am now going to provide you with a partial list of staff members who have at one time or another; spent staff time at taxpayers' expense on this Veterans Tax Exemption issue. (This list of employees will follow this week).

I would like to know, at what cost did all of these employees "staff time" add up to? Included in this dollar amount should be four failed attempts to change/amend the Veterans Tax Exemption Act.

1. Legislative Suggestion 3 / 4 of January 1999. I was successful in having this pulled.

2. Assembly Bill by Mountjoy, 2003. I was successful in defeating this Bill.
3. Assembly Bill by Walters, 2006. I was successful in defeating this Bill.
4. Assembly Bill by Berg 2008. The past year, 2008 the Berg Bill passed, only after the Bill sent to the Senate as a stand- alone Bill, which I was also responsible for.

A bill to amend 16.100.5 - This Business license Waiver enactment 16.1007 makes clear that 16100; 16100.5; and 16102; all contain unique and specific tax language, and they mean what they say. These following facts as well as the facts contained in the prior paragraphs should be enough to convince any person that the Veteran is tax exempt; "any license tax or fee whatsoever whether city county or State." Or you may read the act like so: "any license tax or fee whatsoever whether city county or State." (With or without the 2 commas.) I call your attention to the original act that contains both commas, Exhibit A. I strongly suggest you read the enactment as written in March 1893, and advise those who would read it otherwise that they are mistaken by doing so and do a disservice to all taxpayers.

**Statutes Construction – Language – Context.** The words of a statute must be construed in context, keep in mind the nature and obvious purpose of the statute where they appear. Courts try to interpret the statute with reference to the entire statutory scheme of which it is a part in such a way that the various elements of the overall scheme are harmonized. A statutory interpretation that leads to "Absurd Consequences" must be rejected. ***"The SBOE, by not reading the law as written has misinterpreted the enactment by putting me on Welfare!*** This is an absurd consequence. ***The State Board of Equalization has spent hundreds of man hours and spent thousands of dollars of the taxpayer's monies by not reading the law as written.*** This is an absurd consequence. The commas, two of them, please refer to original act of March 24, 1893; the purpose was to create employment for disabled veterans in a very narrow class, a cottage industry of business, by hawking, peddling and vending goods owned by him. (Consumer status) by itinerant means. Over 18.7% of current returning Veterans are unemployed!

The following points and authorities should be given great weight.

Construction Legislative intent

The primary rule of statutory construction is that the courts must attempt to ascertain the legislative purpose as a whole and in connection with related statutes. In this case, to employ the Veteran in a narrow business of their own.

Statutes Construction – PLAIN MEANING

If the statutory language is clear and unambiguous there is no need for construction and the courts should not indulge in it. Unless the party seeking an alternative construction can demonstrate that the natural and customary import of the statute's language is either repugnant to the general purview of the act or for some other compelling reason should be disregarded the courts must give effect to the statute's PLAIN MEANING. The revenue stream of the period was the license tax!

The Sept. 27, 1999, signed letter by Lois Capps, member of Congress, has not been included. Please amend your letter to Ms. Susan Lee, Supervising Deputy Attorney General to include these most important omissions as well as what I consider this oversight. The primary task of statutory construction is to ascertain the intent of the legislature so as to effectuate the purpose of the law. "The purpose of the law was to address the extremely high unemployment rate of the Disabled

American Veteran returning from conflict, and to enable those veterans to pay our income tax. You must first read the March 24, 1893 enactment with both commas and unique and specific tax language contained. The opinion request must and should contain the legislative counsel unsuccessful efforts to amend the act. (SBOE legislative suggestion 3 / 4, 1999, AB by Mountjoy 2003, AB by Walters 2006.)

I have been at this for some time now. Your office has made clear you wish the Attorney General Office "to be completely unaffected by any deference that could potentially be given to the SBOE's historical understanding. These points must be added to your opinion request. The original Act of March, 1893 must be included. The slanted four pages dated March 16, 2009 is incomplete and about what I expected from the tax attorneys.

In closing I call your attention to March 16, 2009 Legislative Counsel Opinion written for the Honorable Pedro Nava, 35<sup>th</sup> District. (Page 3) In this regard Section 16102 expressly provides that a qualified veteran may sell merchandise "without payment of any license, tax or fee whatsoever". The comma after the word tax is missing. **Why?** Please reread the March 1893 enactment found in Chapter CCXXXIV. Do not make or repeat this mistake of not including both commas in this unique and specific tax language. Enclosed once again is the original enactment – This additional information must be included/attached to your opinion request of March 16, 2009.

Finally, I request copies of all information sent to the Attorney General to include all memorandums and enclosures (1 through 11) mentioned in the March 16, 2009 letter. Include this entire letter to the Attorney General.

William M. Connell

**August 25, 2008 Communications from Plaintiff**

**From:** Linda Renee Fenton <fentonlr@yahoo.com>  
**To:** Jane O'Donnell <Jane.O'Donnell@doj.ca.gov>  
**Date:** 8/25/2008 8:40 AM  
**Subject:** William Connell CASE NO 34-2008-00012293-CU-MC-GDS  
**Attachments:** 16102 rev.doc; Statement of Principle.doc

Ms. O'Donnell

I wish to make clear, and to be included in my case, any and all papers given to the court, the following two pages that pretty much sums up my feelings on the Veterans Tax Exemption issue.

Statement of Principal  
1893 Enactment

Please note the commas and understand the words any and whatsoever, and State (upper case, capital S).

Respectfully,

William M. Connell

**Add Section 6360.2 to the Revenue and Taxation Code to specify that a United States veteran honorably discharged or honorably released from service, shall be regarded as a consumer, rather than a retailer, of tangible personal property that he or she sells, except alcoholic beverages, provided that, for purposes of selling the tangible personal property, the veteran has no permanent place of business in this state.**

Under California's Sales and Use Tax Law (Part 1, Division 2 of the Revenue and Taxation Code, commencing with Section 6001), except where specifically exempted by statute, sales tax is imposed on all retailers for the privilege of selling tangible personal property at retail in this state. Use tax is imposed upon the storage, use, or other consumption in this state of tangible personal property purchased from a retailer.

This proposal would provide that a United States veteran that has been honorably discharged from service, or released under honorable conditions, shall be regarded as the consumer of, and not a retailer of, tangible personal property, except alcoholic beverages, that he or she sells, provided that, for the purpose of selling the property, the veteran has no permanent place of business in this state.

Under this proposal, as a consumer, a qualifying veteran making sales of tangible personal property (except alcoholic beverages) would not be required to report tax on his or her sales of tangible items, but rather, would be required to pay tax on his or her cost of the items (since sales and purchases of food products are exempt from sales and use tax, tax would not apply to a qualifying veteran's cost price of food products as well). If the qualifying veteran makes no sales of alcoholic beverages, the veteran would not be required to obtain a seller's permit, file sales tax returns, or be held liable for sales tax on his or her sales of tangible items. Instead, the qualifying veteran would simply be required to pay tax on his or her purchase price of the tangible personal property the veteran acquires from his or her suppliers (unless that purchase of property is otherwise exempt from tax, such as food products).

California's Sales and Use Tax Law places a variety of sellers of tangible items under this "consumer" reporting status. For example, certain sales by nonprofit youth groups, PTAs, nonprofit veterans' organizations, various charitable organizations, schools and school districts, optometrists, veterinarians, and others are regarded as consumers, rather than retailers, of certain products they sell. The "consumer" reporting status is primarily designed to minimize reporting burdens placed on these smaller entities, while minimizing the associated revenue loss that can accompany a complete exemption from the tax.

This proposal was prompted by a specific case involving a United States veteran that was held liable for past sales tax obligations in connection with his sales of hot dogs from a hot dog cart. In his failure to report the tax, the veteran relied upon Business and Professions Code Section 16102, which provides:

“Every soldier, sailor or marine of the United States who has received an honorable discharge or a release from active duty under honorable conditions from such service may hawk, peddle and vend any goods, wares or merchandise owned by him, 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 therefor.”

The Board held that this provision does not apply to sales or use taxes imposed pursuant to California’s Sales and Use Tax Law.

*Section 6360.2 is added to the Revenue and Taxation Code to read:*

6360.2. (a) Except as provided in subdivision (d), a qualified itinerant vendor is a consumer of, and shall not be considered a retailer of, tangible personal property which he or she sells.

(b) For purposes of this section, a “qualified itinerant vendor” means a soldier, sailor or marine of the United States who has received an honorable discharge or a release from active duty under honorable conditions from such service who, for purposes of selling tangible personal property, has no permanent place of business in this state.

(c) "Permanent place of business" means any building or other permanently affixed structure, including a home residence, that is owned or held under a 12-month lease or rental agreement at the time business is commenced and is used in whole or in part for the purpose of engaging in the sale of tangible personal property.

(d) This section shall not apply to the sale or use of spirituous, malt, vinous or any other intoxicating beverage.

**SALUD CARBAJAL**  
First District Supervisor

**JEREMY TITTLE**  
Executive Staff Assistant

**MARY ELLEN WYLIE**  
Administrative Assistant

**ERIC FRIEDMAN**  
Administrative Assistant



**BOARD OF SUPERVISORS**  
105 East Anapamu Street  
Santa Barbara, California 93101

TELEPHONE: (805) 568-2186  
FAX: (805) 568-2534

E-mail:  
supervisorcarbajal@sbcbos1.org

**COUNTY OF SANTA BARBARA**

June 15, 2010

Honorable Betty Yee  
California State Board of Equalization  
450 N Street, MIC: 71  
Sacramento, CA 95814

Dear Ms. Yee,

I am contacting you on behalf of Mr. William Connell regarding retroactive tax repayments for honorably discharged and disabled veteran pursuant to the recent passage of SB 809, authored by Senator Jeff Denham.

Recently Mr. Connell worked with Senator Denham on the passage of SB 809 in the effort to address a nearly twenty year tax dispute he raised with the State Board of Equalization. While passage of SB 809 addressed most of his issues, there still remains the unresolved matter of retroactive repayment of previous taxes that were paid by veterans, including Mr. Connell.

I appreciate your assistance in addressing this issue.

Sincerely,

Salud Carbajal

cc: William Connell

Item F1