Language Service Companies with Significant Interpreting Portfolios – Section 2278 – B2B

- Referral Agency Exemption
- Interpreters can be Individual Sole Proprietors
- Interpreters with a certification in an available language and domain must be certified in that language and domain in order to work with a language company under a Referral Agency relationship.
- Ancillary Services?
AB 2257 and Referral Agencies

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AB 2257- What tests are applied?

Dynamex vs. Borello
These are the cases from which AB5 was ostensibly derived:

- **S.G. Borello & Sons, Inc. vs. Department of Industrial Relations** 48Cal.3d 341 ("Borello") from 1989
- **Dynamex Operations West vs. Superior Court of Los Angeles** 4Cal.5th 903 (2018) ("Dynamex") from 2018
- Ayala vs. Antelope Valley Newspapers, Inc. 59Cal.4th 522 (2014) ("Ayala")

READ ABOUT THEM HERE:

PREPARE:

**Action**
- Defend your business position
- Leverage legal structures
- Be in documented compliance with the regulations
- Hold up how you are independent (for freelancers)

**Reason**
- Most have no idea what we do is or how we do it, especially not government agencies.
- AB 2257 sets out the structure
- Avoid fines
- Establish yourself as a professional, separate & distinct entity
Check List for Freelance Interpreter:

3 Key things:
• Demonstrate independence from the referral agency
• Demonstrate professional prowess
• Demonstrate business practices that establish you as a separate business in the marketplace

How?
• Have written agreements between you and the agency
• Provide all requested documentation
• Obtain credentials- inform the agency of the special skills that set you apart as a professional
• Engage in professional development
• Obtain a business license, advertise, invoice regularly
Check List for Referral Agencies:

3 Key things:
• Demonstrate independence from the interpreter
• Demonstrate professional prowess
• Demonstrate business practices that establish you as a separate business in the marketplace

How?
• Have written agreements between you and the interpreter
• Maintain a record of all compliance documentation
• Incorporate, obtain a business license, liability insurance, workers’ comp insurance
• Set up a website, advertise, keep an arms length from your vendors
SOME QUESTIONS TO ASK YOURSELF:

• Who are you in light of these new definitions.

• Under the law, is your business structure better defined as a:
  • B2B
  • Referral Agency
  • Service Provider
  • Business Service Provider
Referral Agency & Service Providers
AB 2257

• Retroactive from January 1, 2020

• Taxation codes still hold, but this law does make changes in that the determination of the status of a worker conforms to the criteria in this law. For most of us that means Borello.