

M e m o r a n d u m**570.0380**

To: Long Beach – Auditing (RNH)

November 7, 1966

From: Tax Counsel (EHS) - Headquarters

Subject: S--- C--- Div. of S--- O--- Co.
XXXXX So. --- Avenue
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SY – XX XXXXXX

I have reviewed your memorandum of October 31, 1966, and the memorandum from Mr. Anderson referred to therein, dated May 11, 1964. I note that Mr. Anderson's opinion was based upon an understanding that although the P--- M--- purchased by S--- was intended to be used as a standby mill, it was not actually so used. Mr. Anderson's letter states:

“It was later determined that they did not need it as a standby, and they sold it. S--- never actually operated the mill nor did they ever install the mill so that it could be operated if needed.”

Your memorandum, however, indicates that the merchandise was purchased “for possible replacement of similar units in operation and were available for use although not actually used in the physical sense.” I agree with you that if property is, in fact, used for “standby” purposes it has been used for purposes of determining the application of sales tax and use tax. If, however, as Mr. Anderson appeared to understand, it was never, in fact, used for this purpose, then I agree with the conclusion expressed in his letter.

EHS:fb

cc: Los Angeles District – District Administrator