

M e m o r a n d u m**330.4140**

To: San Jose – Auditing (PWS)

Date: January 12, 1968

From: Tax Counsel (TPP:AWP) - Headquarters

In your memorandum of December 28, 1967, you ask whether attaching bindings to skis results in a substantial change in form.

The facts, as we understand them, are that the taxpayer purchases skis and pays tax on his cost. He then purchases bindings from other vendors which, in some instances, are purchased taxpaid and in other instances ex tax. The taxpayer then attaches the bindings to the skis and rents them as a unit. The attachment of the bindings does not result in a substantial change in form. The fabrication labor in this operation is considered minimal and, therefore, this situation would be considered analogous to that set forth in annotation 1537.64.

However, if bindings purchased ex tax are attached to skis, then the entire rental receipts for the skis and bindings would be subject to tax. We have not allowed apportionment between taxpaid and ex-tax property rented as a unit. The taxpayer could, of course, take a taxpaid purchase resold deduction for the amount of tax paid on the skis.

AWP/vs

This is a finding of that in this particular circumstance. Dollar amount is not determinate. E.g., person assembles a desk costing \$1000. Assembly is surprisingly easy & is valued at \$10. Before, a bunch of wood ready for assembly. After, a desk. This is a substantial change in form even if the value of assembly is but a small portion of the value of the assembled item. Tax applies to the lease receipts. 3/6/98 DHL

Only if the skis had never been used, including circumstances of being leased previously in leases which were not continuing sales. 3/6/98 DHL.