

M e m o r a n d u m**330.2001**

To: Principal Tax Auditor

December 6, 1984

From: Les Sorensen

Subject: Memorandum of March 27, 1984, from Legal (ELS)
to Sepulveda – Audit re V--- C--- T---, Inc.

This is in response to your memorandum of October 28, 1984 to Don Hennessy. I agree with your observation that there is an apparent conflict between the position taken in the subject memorandum and BTLG Annotation 330.2310. As you may recall, I raised the apparent inconsistency at the March 21, 1984 meeting between Administration and Legal.

It was concluded at the meeting, however, that there was a distinguishable difference between the mobile telephone pager industry and the cable television industry which justified the difference in treatment. In the former, there is considerable hands-on use by the customer of the receiving unit, whereas, in the latter, while there is some hands-on use by the customer, it was felt the primary utilization of the converters and remote control units was by the cable television company to facilitate the provision of its cable television service to the customers.

It was also concluded at the meeting that, notwithstanding the service nature of the cable television business, we would continue to permit the service supplier to report tax based upon rental receipts where periodic charges for the service element and charges for the tangible personal property provided the customer were separately stated in the contract. Such separate statement was viewed as an intention to lease the property and treatment of the charges in this manner was consistent with advice previously given similarly situated taxpayers.

ELS:md

cc: Don J. Hennessy