

May 25, 1951

Mr. 

R. G. Hamlin

Ruling 62 - Lease Contracts

In your memo of May 3 you inquire whether the tax will apply to a sale of furniture and fixtures used or held in an activity requiring the holding of a seller's permit, upon the exercise of an option in a lease agreement, the exercise of the option occurring a year after the date of sale of the business.

Assuming that the lease represents a true option agreement, within the meaning of the third paragraph of Ruling 62, and is not in lieu of a sale, within the meaning of the first and second paragraphs of said ruling, a sale does not occur until the exercise of the option. If the agreement to sell was entered into by a retailer required to hold a seller's permit, however, it is our opinion that the tax applies to the sale, as indicated by the first paragraph of Ruling 81.

RGH:as