

M e m o r a n d u m**295.1780**

To: Sacramento - Auditing

Date: April 14, 1960

From: Headquarters - Tax Counsel (SOL)

Subject: Television-lease-agreements with option to purchase for nominal fees

Pursuant to your memorandum of March 23, 1960, and our discussion with Mr. J. D. Dotson on April 13, 1960, it is our understanding that you desire an interpretation of the transactions reflected in Item D of the Field Audit Report and office discussion with the above taxpayer held on March 16, 1960.

It appears that taxpayer would enter into a formal lease agreement with customers who are primarily operators of hotels and motels whereunder taxpayer would lease television sets and other appliances for a term of usually three years for payments of a given amount per month over the period of the lease. The lessor installs these appliances and, during the period of the lease, repairs and otherwise maintains them, but makes no separately-stated charge therefor. Likewise, in certain areas the lessor provides tie-in reception facilities for the television sets but makes no separately-stated charge therefor.

In addition to the above-stated lease agreement, taxpayer also enters into another agreement with the lessees whereunder the latter are given options to purchase these appliances at nominal amounts of \$1 0 or \$25 as the case may be.

We are of the opinion that these transactions are sales under Ruling 62, and that since the customer is not given any option with respect to the purchase of the above-mentioned services, it would appear that the taxpayer is not entitled to exclude any amounts therefor from his taxable gross receipts.

Stanley O. Lerner