701—16.22(422,423) Sales on layaway. The gross receipts from sales on layaway are subject to tax. A layaway sale involves two separate and distinct contracts. Under the first contract, the customer and the retailer enter into an agreement to give the customer an option to purchase a certain item of tangible personal property. Under the second contract, the sale of property takes place. During the period of the option the item is placed aside "on layaway" and is not available for sale to the general public. This option to purchase is exercised by the customer's making one or more "layaway payments." The customer exercises the option to buy by completing the layaway payments. The last layaway payment is also the tendered payment under the separate contract for sale of the property. The contract for sale is complete when the seller delivers the property to the buyer. See *Holland v. Brown,* 15 Utah 2d 422, 394 P.2d 77 (1964) and *Sturtz v. Iowa Department of Revenue,* 373 N.W.2d 131 (Iowa 1985). Tax must be reported during the period (e.g., the quarter or month) in which delivery under the contract for sale portion of the layaway occurs. This will nearly always be the reporting period in which physical transfer of possession passes from the retailer to the buyer.

A sale on layaway should not be confused with a "conditional sale." The differences are these: (1) in a conditional sale physical transfer of property occurs before, rather than after, the buyer makes all periodic payments necessary to purchase the property; (2) in a conditional sale physical possession of and title to the property pass to the buyer at different times. First physical possession passes; then after all periodic payments are made title (ownership) passes to the buyer. In a layaway sale both possession and title pass at the same time after all payments are made; (3) the conditional sale is a much more common commercial arrangement than the sale on layaway.

This rule is intended to implement Iowa Code section 422.42(2).