

U.S. DEPARTMENT OF LABOR
WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS
WASHINGTON, D.C. 20210

20210

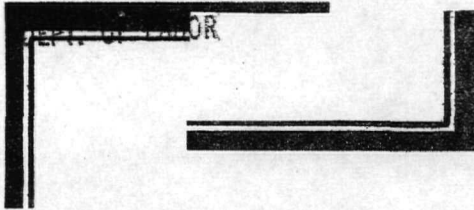
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This is in reply to your letter of June 7, 1966, concerning an assistant manager or manager of a leased department or store whose compensation is based on a percentage of store sales.

Payment to a store or department manager of a percentage of the total sales of the store or department of which he is in charge would be compensation on a commission basis within the meaning of section 7(h) of the Fair Labor Standards Act. While the sales, or most of them, are made by other employees, the role, position and functions of the manager undoubtedly contribute greatly to the sales of the store or of his department. Whether compensation of an assistant manager on this basis represents a commission basis of payment would depend on the nature of his duties, the relationship of his work to sales and its influence upon the volume of sales made.

More facts would be necessary, of course, to determine whether a particular store manager actually is paid on a commission basis and whether all of the conditions for exemption under section 7(h) are met.

Sincerely yours,

Administrator