

September 3, 1925.

OPINION No. 1247

TAXATION—INCOME.

Profits realized, within a taxation period, from a sale of real estate, made within two years of the purchase thereof, are subject to the Territorial Income Tax.

Honorable E. S. Smith,
Acting Treasurer, Territory of Hawaii,
Honolulu, Hawaii.

Dear Sir:

Under date of August 31, 1925, the Territorial Treasurer addressed a communication to me asking my construction of Section 1390, Revised Laws of Hawaii, 1925, as applied to profits realized from the sale of real estate "purchased within two years"; and on this question I beg to advise you as follows:

The wording of Section 1390 is very clear, and subjects to taxation, as income, all profits realized, within any taxation period, from the sale of real estate which has been purchased within two years prior to the sale thereof or, more strictly, within two years of the realization of profits thereon accruing from said sale.

The instructions printed on the individual income tax returns which refer to two calendar years or taxation years, are misleading, and have no authority of law.

You are therefore advised that, in the case of a taxpayer residing in Honolulu, who bought real estate on October 6, 1922, for \$1,000.00, and thereafter, on August 30, 1924, sold same and realized therefor

\$2,000.00 the "profit realized" of \$1,000.00 is subject to the territorial income tax.

I am sending you a carbon copy of this opinion in case you wish to forward same to Mr. H. C. Hill, Income Tax Assessor for the First Division.

Very truly yours,

WILLIAM B. LYMER,

Attorney General.