

October 6, 1925.

OPINION No. 1259.

INCOME TAX: WHETHER SAME
IMPOSED ON AN ESTATE AS
AN ENTITY FOR WHICH THE
ADMINISTRATOR IS LIABLE:

The tax imposed by our income tax statutes is on persons and corporations and does not extend to estates, the income of which is not taxable against the administrator.

Honorable Charles T. Wilder,
Tax Assessor, First Taxation Division,
Honolulu, Hawaii.

Dear Sir:

Under date of July 30, 1925, you wrote me requesting an opinion as to whether or not our territorial income tax law imposes an income tax on an estate as an entity for which the administrator is liable.

This question was raised through a communication from Mr. McLean, Vice President of the Hawaiian Trust Company, Limited, in connection with the estate of Ching Shai, deceased, of which estate said Trust Company is administrator *de bonis non*.

This estate, while in process of administration, received income amounting to \$2655.49 in 1923 and \$2248.33 in 1924. Income tax returns were filed by Edward Ching Shai, who was at that time the administrator of the estate, but the tax was not paid.

The Hawaiian Trust Company, Limited, contends that the above returns were improperly made and that no income tax can be imposed on same.

I am of the opinion that the contention of the Hawaiian Trust Company, Limited, is correct. The tax imposed by our income tax statutes is imposed on

persons and corporations and does not extend to estates. The income of an estate is not that of an administrator, and is not taxable to him, but to the beneficiaries when they receive it.

The case of Wilder vs. Hawaiian Trust Co., Ltd., 20 Haw. 589, seems to be in point and controlling,

Very truly yours,

WILLIAM B. LYMER,

Attorney General.