

May 4, 1926.

OPINION No. 1344.

TAXATION—MOTOR VEHICLES:

All motor vehicles are subject to an annual tax of one cent per pound in weight, excepting publicly owned motor vehicles which are exempt and motor vehicles brought into the Territory by non-residents who have paid taxes thereon in the state of their residence and new motor vehicles carried in stock for the purpose of sale, both classes of which are exempt for a period of three months.

SAME:

Motor vehicles taxed under Sec. 1306 R. L. 1925, cannot be again taxed under Sec. 1316 R. L. 1925.

Honorable Henry C. Hapai,  
Treasurer, Territory of Hawaii,  
Honolulu, Hawaii.

Sir:

By letter of April 19th you have asked for the opinion of this department as to whether or not automobiles which have been specifically taxed under Section 1306, R. L. 1925, as amended by Act 180, S. L. 1925, and which are owned by a dealer, may again be taxed under Section 1315, R. L. 1925, as amended, as personal property.

The question was submitted to you by the Assessor of the Second Taxation Division by letter dated April 15, 1926, a copy of which was transmitted with your letter.

The material part of Section 1306,—motor vehicle tax—provides:

“Sec. 1306. Motor Vehicle Tax. All automobiles and other power driven vehicles (all such vehicles being hereinafter referred to as motor vehicles) shall be subject to an annual tax of one cent for each pound in weight of such motor vehicle, to be paid by the owners thereof, which tax shall be collected by the treasurer or his deputy, of the county or city and county, as the case may be, and shall become due and payable on the first day of January and must be paid before the first day of March in each year. \* \* \* Provided, however, that whenever it shall be made to appear to the treasurer or his deputy, that any motor vehicles have been acquired subsequent to January 1st of the current year by the person seeking to register the same, the tax to be paid thereon shall be as herein provided, less eight and one-third per centum of such tax for each month of the then calendar year which shall have elapsed at the date said motor vehicle was acquired. Provided further, that motor vehicles owned and brought into the Territory for temporary use therein by non-residents of the Territory shall be exempt from the provisions of this chapter relative to the payment of taxes \* \* \* for a period of three months from the date of entry of such vehicle into the Territory, if such non-resident has complied with the law of the state or country of his domicile relative to the payment of taxes \* \* \* .”

“All new vehicles carried in stock for purposes of sale shall be for a period of three months only \* \* \* exempt from the tax herein provided for \* \* \* .”

“Any motor vehicle not having the number plates required by this section, or any motor vehicle upon which taxes are delinquent \* \* \* may be seized wherever found \* \* \* .”

Under the section quoted all motor vehicles in the Territory are subject to the specific tax, excepting all publicly owned motor vehicles which are exempt and all vehicles owned and brought into the Territory by non-residents, and new motor vehicles carried in stock for purposes of sale, which are exempt for a period of three months.

All vehicles subject to taxation, upon which the specific tax has not been paid, may be seized wherever found by the treasurer, his deputy, the sheriff, his deputy or any police officer.

Section 1315, R. L. 1925, as amended, provides for the general taxation of real and personal property, the first paragraph of which reads as follows:

“Sec. 1315. General property taxes. Except as exempted or otherwise taxed, all real and all personal property, within each tax-

ation division shall be subject to a tax each year of such rate per cent upon the full cash value thereof \* \* \* .”

This section provides for the taxation of all property not exempt from taxation or otherwise taxed. Motor vehicles being otherwise taxed are not subject to taxation again under the last section quoted. It would be double taxation to tax the owner of a motor vehicle under Section 1315 R. L. 1925, when he is bound under Section 1306 to pay the specific tax thereon. To prevent double taxation the Legislature has specifically excepted from the provisions of Section 1315, motor vehicles, by the use of the expression “except as otherwise taxed.”

It is the opinion of this Department and you are so advised, that an automobile dealer who has paid the specific tax under Section 1306 on all automobiles owned by him, is not subject to a further tax upon said automobiles, as personal property, under Section 1315 of the Revised Laws of Hawaii 1925.

Respectfully,

CHARLES B. DWIGHT,

Third Deputy Attorney General.

APPROVED:

WILLIAM B. LYMER,

Attorney General.