

June 18, 1927.

OPINION No. 1438.

TAXATION: INCOME TAX: FEDERAL CONTRACTS:

The profits on contracts of private individuals or corporations with the United States Government are taxable by the Territory.

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

Dear Sir:

I have the honor to reply to the request of Harold C. Hill, Deputy Tax Assessor, First Division, concerning the assessment of income taxes against certain construction companies which hold contracts with the United States Government for work within the Territory. These companies claim to be exempt from the payment of territorial income taxes on the profits of such jobs because they are federal contracts, presumably upon the theory that they are acting as agencies of the federal government and are therefore exempt.

I beg to advise you that the profits of contracts with the federal government are taxable by the local authorities.

Metcalf v. Mitchell, 269 U. S. 514; 70 L. Ed. 384.

The personal property engaged in such contracts is also taxable.

Thus dredging equipment in San Juan harbor, solely for the purpose of executing a dredging contract with the United States, was held taxable by Porto Rico in—

Gromer v. Standard Dredging Co., 224 U. S. 362; 56 L. Ed. 801.

Also see:

Burgess v. Montana, 8 Mont. 57; I L.R.A. 808;
Occidental Construction Co. v. United States, 245 Fed. 817;
United States v. Moses, 185 Fed. 90.

It has been held that a State may tax the interest of a corporation in a drydock which the United States has the right to use under a contract with the corporation.

Baltimore Shipbuilding & Drydock Co. v. Baltimore, 195 U. S. 375; 49 L. Ed. 242.

So also a State may tax premiums collected by bonding insurance companies on surety bonds required of United States officials.

Fidelity & Deed Co. v. Pennsylvania, 240 U. S. 319; 60 L. Ed. 664.

In the latter case the court said:

“But mere contracts between private corporations and the United States do not necessarily render the former essentially government agencies and confer freedom from state control”

Yours truly,

MARGUERITE K. ASH FORD,
First Deputy Attorney General.

APPROVED:

WILLIAM B. LYMER,
Attorney General.