

May 22, 1939.

OPINION NO. 1708

DELINQUENT TAX BUREAU; EXPENSE FUND.

Taxes may become delinquent during the year of assessment if not promptly paid upon the date due, and the delinquent tax bureau is entitled to 25% of the collections made of such delinquent taxes.

Honorable William Borthwick,
Tax Commissioner,
Territory of Hawaii,
Honolulu, T. H.

Sir:

You have requested our opinion as to whether or not the delinquent tax bureau is entitled to 25% of all collections made by or with the assistance of said bureau of delinquent taxes assessed during the year of collection. Said subject matter is covered by section 1970, R. L. 1935, as amended by Act 137, L. 1935, and as further amended by Act 241, L. 1937. The applicable portion of said section reads as follows:

“* * * Not later than ten days after the end of each month, the treasurer shall transfer to said fund twenty-five per centum of (a) all collections, including penalties and interest, of delinquent taxes assessed prior to the year of collection, and (b) all such collections made by or with the assistance of the bureau of delinquent taxes assessed during the year of collection, which have been paid to the treasurer during such month* * *”.

As I understand it, it is the present practice of the delinquent tax bureau to assist the various tax divisions of the tax department in the collection of taxes not yet accrued but delinquent in payment and due during the year of collection. At present no claim for a

deduction of 25%, as above provided, has been made by the delinquent tax bureau.

It is my opinion that the delinquent tax bureau is entitled to 25% of such collections. This is clearly covered by paragraph (b) of the above quoted portion of section 1970. Taxes may become delinquent during the year of assessment if they are not promptly paid upon the due date. It is not necessary to wait until the year following the year of assessment before declaring taxes delinquent. Obviously it was the intent of the legislature to compensate the delinquent tax bureau in all cases where it has collected or assisted in the collection of delinquent taxes assessed or payable during the year of the collection.

Very truly yours,

ERNEST K. KAI,
Assistant Attorney General.

APPROVED:

J. V. HODGSON,
Attorney General.
