

any other corporation organized in conformity with such laws. Hence, whatever arrangements the stockholders of the corporation under discussion may have entered into among themselves, such arrangements cannot supersede the statute which requires all corporations to pay taxes on income. You are accordingly advised that the income which has been distributed by this corporation among its stockholders under the self-styled name of "Interest on Existing Indebtedness" is not exempt from the payment of income tax.

It is a well settled rule of law that no exemption from taxation can be claimed unless specifically authorized by statute.

"A grant of exemption from taxation is never presumed; on the contrary, in all cases of doubt as to the legislative intention, or as to the inclusion of particular property within the terms of the statute, the presumption is in favor of the taxing power and the burden is on the claimant to establish clearly his right to exemption." 37 cyc. 891.

I wish to say that upon reaching the foregoing conclusion which was soon after the receipt of your letter I called on Mr. R. H. Trent an officer of the Mutual Building and Loan Society of Hawaii Limited and informed him of my views. At his request I agreed to withhold rendering my opinion in order to give the legal advisers of the corporation an opportunity to discuss the question with me. Thus far they have failed to appear and have thereby caused this belated reply.

Yours very truly,

WM. H. HEEN,
Deputy Attorney General.

Approved:

INGRAM M. STAINBACK,
Attorney General.

October 11th, 1916.

OPINION NO. 558.

TAXATION: INCOME TAX:

Income earned by Mutual Building & Loan Society of Hawaii, Ltd. and distributed among members who are stockholders is subject to Income tax.

Hon. Chas. J. McCarthy,
Treasurer, Territory of Hawaii,
Honolulu, T. H.

Dear Sir: In reply to your letter wherein you ask to be advised as to whether the income earned and distributed among the stockholder by the Mutual Building & Loan Society of Hawaii, Limited, should be treated as payments of interest and therefore exempt from income tax, or whether such dividends should be treated as profits and taxed accordingly, I have to say as follows:

There is no law in this jurisdiction relating specifically to the incorporation of building and loan associations. The Mutual Building and Loan Society of Hawaii, Limited, was incorporated under the general corporation laws of the Territory and under such laws, it is not subject to any greater liabilities nor is it entitled to any greater privileges than