

January 15, 1917.

OPINION No. 622.

INHERITANCE TAX:

Stock In foreign corporations held by a resident of the Territory of Hawaii at the time of his death is subject to the Inheritance tax of the Territory.

C. J. McCarthy, Esq.,
Treasurer, Territory of Hawaii,
Honolulu, T. H.

Dear Sir: In reply to your letter enclosing a letter from James E. Jaeger, Trustee of the B. M. Allen Trust Estate, claiming that the Territory wrongfully collected \$3,678.97 as inheritance tax on property of the deceased which is out of the Territory, which said property is enumerated as shares of stock in certain California corporations, I beg to advise you that stock in a foreign corporation held by a resident of the Territory at the time of death is subject to the inheritance tax of the Territory. Shares of stock owned by the deceased are personal property and may be made subject to taxation as personal property of resident owners. *Bradley v. Kauder*, 36 Ohio State 28.

Section 1345, R. L. 1915, in defining the words "estate" and "property," as used in the inheritance tax law, states that the same shall include *all personal property within or without the Territory*. The case of *In the Matter of Merriam*, 141 N. Y. 479, is on all fours with the case before us and holds that stock in a foreign corporation held by a resident of the State of New York at the time of his death is subject to the inheritance tax of New York, although the decision is not based on the theory that the legal situs of the stock as personality is at the domicile of the owners but rather on the theory that the tax is imposed on the right of succession and not on the property itself. *The*

Estate of Short, 16 Penn. St. 63, also holds that stock in a foreign corporation is subject to inheritance tax.

Yours very truly,

INGRAM M. STAINBACK,

Attorney General.
