

OPINION No. 1273.

October 28, 1925.

TAXATION; CORPORATION; INSURANCE PREMIUM:

Payments to a corporation under policies upon the lives of their officers are corporate income and taxable as such.

TAXATION; CORPORATION; INSURANCE PREMIUM:

Premiums paid by corporation upon policies of insurance on the lives of their officers are deductible from the gross income for purposes of taxation as being a necessary expense of carrying on the business of the corporation.

E. S. Smith, Esq.,
Acting Treasurer, Territory of Hawaii,
Honolulu, T. H.

Dear Sir:

In reply to your letter of October 19th, relating to the allowance of deduction for premiums paid on insurance policies on the lives of officers of corporations, in favor of such corporations, I beg to advise you as follows:

Our statutes on income taxes make no provision for exemption of payment of insurance policies. Such policies would undoubtedly be construed to be a part of the corporate income under the provisions of Section 1389 and Section 1390, R. L. 1925. If the proceeds of such policy were not derived from the business itself, they would certainly be from "property owned in the Territory," within the meaning of *Ewa Plantation v. Wilder*, 26 Haw. 299; 289 Fed. 664.

I advise you, therefore, that any payments to the corporation, under such policies upon the death of the

insured, would be taxable as income for the period in which it was received.

The yearly premiums paid upon said policy are therefore deductible as necessary expenses actually incurred in carrying on the business.

The theory upon which such insurance is sustained is that its purpose is to recompense the corporation for the loss or disadvantage occurring to it from the death of the officer insured (*Rumsey v. N. Y. Life Ins. Co.*, 25 Haw. 141). The expense of premiums is, therefore, incurred for the benefit of the business to foreclose the possibility of serious disaster in the future, and is a legitimate corporate expense which may be deducted from the gross income of the corporation.

Very truly yours,

MARGUERITE K. ASHFORD,
Acting Attorney General.