November 19, 1925.

OPINION No. 1284

TAXATION—ASSESSMENTS:
The Assessor may correct errors in assessments, if such correction be not prejudicial to the taxpayer, after May 1st.

Honorable Charles T. Wilder,
Tax Assessor, First Taxation Division,
Honolulu, Hawaii.

Dear Sir:

In reply to your request for advice concerning your right to make corrections in assessments, in view of Section 1365, R. L. 1925, I beg to advise you as follows :

Any law is always to be construed in connection with the general statutes *in pari materia*, and with a view to the reason for its adoption. Undoubtedly, the purpose of Section 1365 was to furnish certain definite information to the Assessor, upon which he could act, relying upon the figures presented to him.

It will be noticed from an examination of Chapter 102, of which Section 1365 is a part, that the chapter distinguishes throughout the conduct of Deputy Assessors from the power and authority of Assessors. Thus, Section 1365 itself distinctly refers to Deputy Assessors, as distinguished from Assessors, and again makes a distinction between those Deputy Assessors who are under the eye of the Assessor himself, that is, in his district, and those who are without the district where the Assessor's office is located.

In Section 1350, certain acts are enjoined upon Assessors as also Deputy Assessors. If the law construed Deputy Assessors to have the same power as

Assessors, and that the two officers should be subject to the same restrictions, there would be no necessity of referring specifically to Deputy Assessors.

The same is true again of Section 1353.

Therefore, in view of the distinction made in the chapter between Assessors and Deputy Assessors, in view of the requirement of Section 1342 that each "Assessor" shall make an assessment of all persons, etc., in his division, and in view of the fact that Section 1365 expressly refers to Deputy Assessors rather than to Assessors, and distinguishes the Deputy Assessors for the districts in which the Assessors have their office, it seems to me clear that Section 1365 is not intended as a restriction upon the Assessor himself, as distinguished from his Deputy.

Upon this general consideration, your specific questions have to be dealt with:

In any case where a claim is made against the Assessor, which he and/or his legal representative shall consider a just, legal claim, which can be authorized in the proper method designated by the law, it has always been the policy of this office to meet the claim in a spirit of equity and compromise. It is upon the theory that such matters can be adjusted that the compromise of tax cases already before the judicial tribunal has been effected. If such matters can be compromised and adjusted when they reach court, there seems in reason no argument against their adjustment before they reach court, if the claim is just and adequately supported. This reasoning would apply to all of your four questions, and I advise you in the affirmative upon all of them.

But, it must be borne in mind that when an adjustment is made to increase the Territory's claim rather than to allow a just claim presented by a taxpayer, a different situation arises and the question of equitable estoppel of the Territory by failure to make its correct

assessment, may arise. Of course, this equitable estoppel would not apply to any matters falling within Section 1347, which allows the Assessor to add to his tax list any person or property theretofore omitted from assessment.

It may be argued that the right to correct clerical errors, to strike a double assessment, etc., after a given date, would result in an unbalancing of the tax returns, but the tax returns are never mathematically certain. There are always certain taxes, for instance, that are not collected, so that a slight dislocation of the sums anticipated to be received from taxation would not disorganize the treasury any more than it has in the past.

Very truly yours,

MARGUERITE K. ASHFORD,

Acting Attorney General.