

May 13, 1926.

OPINION No. 1348.

TAXATION — FOREST LAND EX-
EMPTION:

Upon full compliance with the terms of Section 1326, Revised Laws, 1925, an exemption from taxation on forest land follows even though the land is under lease with the taxes payable by the lessor.

Mr. Joseph Oliveira, Jr.,
Deputy Tax Assessor,
Second Taxation Division,
Makawao, Maui, T. H.

Sir:

There has been turned over to me this day by the Attorney General a communication from the Bishop Trust Company, Limited, Executor for the C. K. C. Rooke Estate, in which they state that you have requested that they take up with this office the within discussed claim for tax exemption and secure our opinion thereon.

It seems that 102.5 acres of Rooke Estate land in the Ili of Honoupu, Pahaku, Maui, now under lease to the East Maui Irrigation Company, is included in land which in 1925 was proclaimed as Forest Reserve by the Governor. It appears also that the lessor under the terms of the lease is to pay the property tax thereon.

You are advised that it is the opinion of this department that the fact that this land is not under the present control of the person liable for the tax, but is under the control of such person's lessee, does not preclude an exemption under the provisions of Section 1326, Revised Laws, 1925. If between the

1st and 31st of January, 1926, the Bishop Trust Company, Limited, made a sworn, written statement to you describing this land in detail, setting forth the facts upon which exemption is claimed, and including an agreement that in consideration of the exemption from taxes they would, during the ensuing year, keep such land properly fenced, not allow any live stock upon it, and would not use such land or its products, except upon the approval of the Board of Agriculture and Forestry, during such year, without first paying the taxes on the land, then it is clear that the exemption should be granted. It then becomes the duty of the lessor to protect itself against any violation by its lessee of the terms of that sworn agreement, inasmuch as the lessor has become liable, in case of such violation, to a fine of twice the amount of the taxes otherwise assessable.

Inasmuch as it is a general rule of law that statutes relating to tax exemptions should be strictly construed against the exemption and in favor of the tax, it follows that in order for the exemption to be allowable there must have been a full and complete compliance with the terms of Section 1326 aforesaid.

Respectfully,

H. R. HEWITT,

Second Deputy Attorney General.

APPROVED:

WILLIAM B. LYMER,

Attorney General.