

June 23, 1926.

OPINION No. 1359.

INHERITANCE TAX:

Property formerly held by an alien decedent, but which was vested in the Alien Property Custodian at the time of the death of said decedent, is not subject to the inheritance tax law.

Honorable E. S. Smith,
Registrar of Public Accounts,
Honolulu, T. H.

Dear Sir:

Under date of December 28, 1925, you requested the opinion of this office as to whether or not the Estate of Erich Wilhelm Eduard Suhr could be assessed under the inheritance tax statute. On the request of Miss Ashford, First Deputy Attorney General, for additional data, you again wrote, under date of June 18, 1926, enclosing the complete file of data on this matter and renewed your request for my opinion concerning same.

The decedent, prior to the month of January 1918, owned extensive properties in Hawaii. In said month of January 1918, the entire estate of said Suhr was taken over by the Alien Property Custodian, the estate being inventoried in the sum of some \$460,000.00. In January, 1919, most of the property was converted into cash and Liberty Bonds. In June, 1919, the sum \$444,990.00 was remitted to the Alien Property Custodian in Washington, and in October 1921, the further sum of \$19,384.00 was thus remitted. In the month of May 1919, the entire assets held by the said Suhr, under a trust account, amounting to \$11,032.00 had been likewise forwarded to the Alien Property Custodian.

Erich Wilhelm Eduard Suhr died in Wiesbaden, Germany, on October 9, 1922, none of said property having been restored to him but all being, at the date of his death, in the custody of the Alien Property Custodian aforesaid.

You are advised that, under the circumstances, the decedent, at the time of his death, left no property whatsoever within this Territory, title to same having been vested in the Alien Property Custodian and actual delivery thereof made to said Custodian.

The mere demand, on the part of the Alien Property Custodian, upon the lawful custodian of an alien's property, held by the latter here in Hawaii, when duly served upon said local custodian, would of itself operate to vest, immediately, all title to the property demanded in the Alien Property Custodian.

Estate of Isenberg, 28 Haw. 590.

Not only was there a demand, duly served, on the custodian of the Suhr property by the Alien Property Custodian, but said demand was fully complied with and the property fully delivered long before the death of this decedent.

For this reason the provisions of our inheritance tax law could not possibly apply, as all assets formerly owned by the decedent were no longer owned by him but by the Alien Property Custodian in Washington, at the time of decedent's death.

Very truly yours,

WILLIAM B. LYMER,

Attorney General.