

November 1, 1926.

OPINION No. 1390.

TAXATION: ADJUSTMENTS —
BOOKKEEPING ENTRIES:

Compromise taxation adjustments should not be entered as delinquent uncollectible taxes, but as adjustments by court order or compromise.

TAXATION: ADJUSTMENTS—
RATES.

Adjustments in assessments should not affect the tax rate.

Honorary Henry C. Hapai,
Treasurer, Territory of Hawaii,
Honolulu, Hawaii.

Dear Sir:

In reply to your request of September 1st for an opinion on the construction of the tax law with regard to bookkeeping entries on compromises, permit me to apologize for the long delay. The letter was in the process of being answered and was placed with some other papers when an interruption caused me to forget about it.

You asked two questions:

(1) Has the Assessor the authority to treat the difference between taxes as assessed and as corrected or adjusted by compromise, as uncollectible delinquent taxes under Section 1375, and

(2) If the assessors have the authority to adjust or correct assessments, what effect will this have on the tax rates?

In reply to your first question, I beg to call your attention to that sheet prepared by the Accountancy Commission entitled "Report of Credit Adjustments in

Amount of Taxes Billed" and numbered "Form B-9b-409, Revised 10-26." On the reverse side of that sheet, corrections and adjustments are grouped under three heads, "A", "B" and "C"; "A" being clerical errors, etc., "B" being adjustments by tax appeal court, and "C" being uncollectible delinquent taxes.

It is clear that if a compromise or correction is made, the difference is not a delinquent tax and should not be listed as such under group "C", for the adjustment is a recognition by the proper authorities that the assessment was unauthorized and incorrect,

If it is due to a clerical error, it should be listed under group "A" of the sheet hereinabove referred to, and if it is a compromise upon some other permitted basis, it should be listed under group "B".

The heading under group "B" however, is misleading inasmuch as it is not as broad as the authority of the assessor or officer. Not merely judgments of the tax appeal court, but judgments of other courts or compromises by the assessor, attorney general, or other proper officer of the government, should fall under this group.

This matter has been referred to by the Attorney General in an opinion (No. 1389), this day rendered to Mr. Seidemann of the Accountancy Commission, and I join in his suggestion, that the heading should be changed to "Adjustments by Court Order or Compromise." This change need not involve any substantial additional expense, as it could be stamped on with a rubber stamp.

The changes to which you have referred in your letter should therefore fall under group "B."

In regard to your second question as to the effect of such adjustments upon the tax rate, they should have no effect upon the tax rate. The taxes are never exactly the same as anticipated, and the minor changes or adjustments, compromises and court orders have always

been recognized as not affecting the general regulation
as to rates.

Yours very truly,

MARGUERITE K. ASHFORD,

First Deputy Attorney General.

APPROVED:

WILLIAM B. LYMER,

Attorney General.