

October 8, 1928.

OPINION NO. 1507

TAXATION — INCOME — WHAT CONSTITUTES:

Income in the nature of commissions derived from mainland branches maintained by Hawaiian corporations, and wholly incidental to the business conducted in Hawaii, is subject to taxation in Hawaii.

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

Sir:

Under date of July 23, 1928, you requested the opinion of this Department relative to the taxing of income derived from mainland branch offices maintained by Hawaiian corporations.

As stated in the letter attached to your communication from Henry Glass, Income Tax Assessor, under date of July 19, 1928, it appears that Alexander & Baldwin, Limited, a Hawaiian corporation, with its principal place of business located in Honolulu, Territory of Hawaii, maintains branch offices on the mainland. These branch offices conduct a business wholly incidental to the business of the home office, consisting principally in the purchase and shipment to Hawaii of merchandise and commodities. The income derived consists of commissions charged on the value of such goods. The home office adds such commissions to the cost of goods and deducts them in full from income. The home office in returning its income as a taxpayer shows as a deduction from income the full amount of the commissions charged by the branch offices, and in turn shows as income only one-half of the same commissions, less one-

half of the necessary expenses of the branch in earning the commissions. Concisely, the home office of Alexander & Baldwin, Limited, writes off the full commissions in their books of account as an expense while the branch credits the full commissions to revenue account as income.

Confirming the oral advice given this date to your Mr. Glass, Income Tax Assessor, relative to the taxing of such income, you are advised that the same is taxable by the Territory of Hawaii when predicated upon the facts as above set forth.

This ruling is in conformity with the principle enunciated in the case of *Ewa Plantation Co. vs. Wilder*, 26 Haw. 299, affirmed 289 Fed. 664.

Very truly yours,

H. T. KAY,  
First Deputy Attorney General.

APPROVED:

H. R. HEWITT,  
Attorney General.