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OP 55-105

November 7, 1955

Honorable Earl W. Fase
Tax Commissioner
Territory of Hawaii
Honolulu, Hawaii

Dear Sir:

This concerns a letter of October 20, 1955 which requested you to give an opinion "with respect to the territorial taxes, if any, involved" should mainland investors enter into certain types of transactions, relating to loans secured by mortgages upon real property in Hawaii.

The tax involved is the general excise tax (chapter 101, R.L.H. 1945, as amended). While there may be isolated transactions so handled as not to constitute the doing of business in the Territory within the meaning of that law, further facts dealing with specific cases would have to be furnished in order to make a ruling. The mainland investors definitely could be subject to the tax.

As to the national banks, the provisions of 12 U.S.C. 548 of course would have to be considered. It is suggested that, if this matter is to be pursued further by any national bank it should, in submitting specific facts for a ruling, include information as to the authority of a national bank to make loans outside the state of its jurisdiction.

Respectfully,

RHODA V. LEWIS
Deputy Attorney General