

ADDRESS REPLY TO
ATTORNEY GENERAL OF HAWAII
AND REFER TO
INITIAL AND NUMBER

RVL:ema
893:45;OLC



OP 57-85

TERRITORY OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
HONOLULU
August 13, 1957

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

Dear Sir:

This concerns certain questions presented by Mr. Bell's letter of August 5, 1957.

1. A distributor must file his report and pay the fuel tax within thirty days after the end of the calendar month in which the liquid fuel was sold or used. Pursuant to Act 322, L. 1957, in computing the tax he then is required to pay, the distributor may take a deduction based on retail sales made by retail dealers during the month. These retail sales must be shown by the retail dealers' certificates. Once the distributor has made his report for the month it is too late for further retail dealer's certificates to be added.

In rare instances a distributor might be permitted to file late, or to file a tentative report to be supplemented by a final report within a stated period. Although there is no specific provision in Chapter 123 for such arrangements, the penalty provisions of section 115-43, read with section 115-4(p), allow sufficient leeway so that no penalty need be incurred when the Tax Commissioner agrees that such departures from the usual reporting procedure are justified. However, the distributor usually will have filed his report for the month by the thirtieth of the following month, precluding the retail dealer from filing at a later date.

2. The definition of "retail dealer", (section 123-1 as amended by Act 322, L. 1957) makes no distinction between types of liquid fuel. The instances mentioned in your letter in which a person purchases liquid fuel from a licensed distributor and sells it for use in small water craft or private airplanes, are included.

3. The \$5.00 permit fee collected from the retail dealer is a general fund realization.

Respectfully,

RHODA V. LEWIS
Deputy Attorney General

RVL:ema