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Op. 62-4

STATE OF HAWAII

Department of the Attorney General

HONOLULU

January 26, 1962

Mr. Quentin I. Smith
Deputy Comptroller
Dept. of Accounting and General Service
State Of Hawaii
Honolulu 10, Hawaii

Dear Sir:

This is in reply to your letter requesting our opinion on whether or not you should honor the Notices of Levy issued by the United States Treasury Department-Internal Revenue service upon unclaimed State tax refund warrants to secure payment of delinquent federal taxes.

You are advised that the levies should be honored.

Under § 6321 of the Internal Revenue Code of 1954, a lien existed upon all property or rights to property belonging to the delinquent taxpayers prior to service upon you of the Notices of Levy. Pursuant to §§ 6331 and 6332, IRC 1954, levies were made upon the unclaimed tax refund warrants by the Internal Revenue Service. We see no objection to the levies made upon the warrants but the question remains whether a state official may be ordered to observe the terms of the Notices of Levy by service thereof.

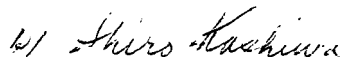
It is our view that the State Comptroller is subject to the Notices of Levy under the particular facts presented and any refusal to comply with the terms thereof might create personal liability. See Sims v. United States (1959), 79 Sup.Ct. 641, 359 U.S. 108, 3 L.Ed.2d 667.

Very truly yours,



CARLOS RAMELB
Deputy Attorney General

APPROVED:



SHIRO KASHIWA
Attorney General

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