

Opinion No. 55-6103

February 15, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: Chas. B. Barker, Assistant District Attorney, First Judicial District, Santa Fe, New Mexico

In your letter dated February 9, 1955, you requested an opinion concerning the claim of tax exemption of an ex-soldier who enlisted in the Armed Forces on January 10, 1921 and was honorably discharged on January 9, 1924. You inquire whether such veteran would be entitled to soldier's exemption.

I assume that the person is otherwise qualified, relative to the date he acquired residence in New Mexico. § 72-1-11 of the 1953 Compilation provides as follows:

"Soldier's exemption. -- 'Soldier' defined. -- 'Soldier' shall include every honorably discharged member of the armed forces, resident of New Mexico and who served in the armed forces of the United States for ninety (90) days at any time during any period in which the military forces are engaged in armed conflict under orders of the President of the United States, and shall include persons of either sex as such honorably discharged members of the armed forces and shall also include resident unmarried widows of such honorably discharged members of the armed forces. Provided, however, that World War I veterans who became residents of New Mexico after January 1, 1934, and who did not serve in World War II, are excluded from this definition."

Prior to the 1953 amendment, this section authorized an exemption to persons serving during any time when the United States was officially engaged in any war. Under the statute before amendment in 1953, if otherwise qualified, the veteran would have been entitled to claim soldier's exemption, in view of the fact that World War I did not officially end until July 2, 1921. However, under the present language of the exemption statute, since hostilities ceased in 1918 and there was no armed conflict in 1921, the person involved is not now entitled to ex-soldier's exemption.

By C. C. McCulloh

Assistant Attorney General