

Opinion No. 58-88

April 29, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Howard M. Rosenthal,
Assistant Attorney General

TO: Mr. Ray Andrew, Administrative Assistant, New Mexico Veterans' Service
Commission, P. O. Box 1723, Santa Fe, New Mexico

QUESTION

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Does service from January 12, 1921 to July 7, 1922, as a member of the Dominican Expeditionary Forces qualify an otherwise qualified veteran for tax exemption under our tax exemption law?

CONCLUSION

Yes.

OPINION

ANALYSIS

Please refer to our letter dated March 26, 1958, in which we advised you that we had made an inquiry from the Department of Defense as to the nature of the service rendered by the Dominican Expeditionary Forces between the above dates. Under date of April 21, 1958, we have received an answer from the Department of Defense couched in the following language:

"The period in which you are interested falls within the inclusive dates for the award of the Expeditionary Medal to Navy and Marine Corps personnel who served in the Dominican Republic between 12 November 1918 and September 1924. The precept for the award of this medal states: 'The medal will be awarded to the officers and enlisted men of the Navy and Marine Corps who shall have actually landed on foreign territory and engaged in operations against armed opposition, or operated under circumstances which, after full consideration, shall be deemed to merit special recognition and for which service no campaign medal has been awarded.'

Specifically, between January 1921 and July 1922, the 3d and 15th Regiments were in the field engaged in antibandit operations in the Dominican Republic within the framework of the American Military Government established in that country in 1916. In addition, many Marine officers and men served with the Policia Nacional Dominicana, the local constabulary organized, trained and officered initially by the Marine Corps. In

the course of extensive drives to isolate and disarm bandit groups in the hinterland of the Dominican Republic during the period under consideration there were, from time to time, minor skirmishes during which shots were fired and some persons were killed and wounded."

As is seen, the Department of Defense regards the incident as an exchange of shots on an adversary basis to a sufficient extent to regard the same as an armed conflict.

Section 72-1-11 provides in part:

"'Soldier' shall include every honorably discharged member, of either sex, of the armed forces, who served in the armed forces of the United States for ninety 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, . . ."

On the basis of the interpretation of the military operation rendered by the Department of Defense and the statutory definition as above delineated, this office is of the opinion that such veterans are entitled to tax exempt status.