

Opinion No. 58-70

April 2, 1958

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

TO: Mr. A. F. Martinez, County Assessor, County Court House, P. O. Box 126, Santa Fe, New Mexico

QUESTION

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Two individuals and their wives own property as joint tenants, one of them is an ex-soldier; the other is not. Is the ex-soldier entitled to the full \$ 2,000.00 Veterans' Exemption or just \$ 1,000.00?

CONCLUSION

In a true joint tenancy, the veteran, if qualified, and the share of the veteran's property is of the value of \$ 2,000.00 or more, is entitled to the full \$ 2,000.00 Veterans' Exemption.

OPINION

ANALYSIS

Art. VIII, Sec. 5 of the New Mexico Constitution, provides, among other things, that the Legislature may exempt "from taxation, property, including the community or joint property of husband and wife, of every honorably discharged member of the Armed Forces of the United States who served in such Armed Forces during any period in which they were or are engaged in armed conflict under orders of the President of the United States, . . . in the sum of \$ 2,000.00".

Nothing appears in this constitutional provision or in the several pertinent legislative enactments which followed, limiting the ownership or ownership status of property covered by the exemption. In other words, the exemption is not on the property but is personal to the individuals qualifying.

Further supporting this view, Sec. 72-1-15, in part, states "any soldier who shall be the owner of more than \$ 2,000.00 of property subject to taxation in the state, shall be entitled to designate the property in his tax return which shall be exempt under this Act". The section goes on further to indicate the procedure if the veteran owns property situated in more than one county, et cetera.

Further supported to the view that the tax exemption is personal to the veteran is obtained by reference to **Dillard v. New Mexico State Tax Commission**, 53 N.M. 12, in which it is held that property owned by one not qualified for the tax exemption on January 1, which is tax day in New Mexico, is not entitled to the Veterans' Exemption for the year even though purchased thereafter by a veteran.

While the question, as stated, indicates an undivided interest in the property belonging to the veteran, by which we mean that no particular square inch, piece of stone, or plank of wood can be determined to belong to the qualified veteran, so long as his interest constitutes a value in excess of \$ 2,000.00, we see no reason why the veteran cannot designate this amount of his particular interest under his tax exemption privilege.