

## Opinion No. 59-53

June 2, 1959

**BY:** FRANK B. ZINN, Attorney General

**TO:** Honorable Dan Sosa, Jr. District Attorney Third Judicial District County Court  
House Las Cruces, New Mexico

Mobile house trailers of military personnel not domiciled in state cannot be taxed and need not be registered.

House trailers made immobile and converted by removal of wheels and construction of permanent foundations become subject to assessment for real property taxes by county assessors regardless of owner's military status or domicile.

Mobile house trailers of persons not in military service must bear current registration plates no matter what the owner's domicile may be. Registration must be in New Mexico after owner has had vehicle in state for over thirty days.

### OPINION

{\*81} This is in reply to your request for an opinion in regard to taxation of house trailers belonging to military and non-military personnel. Your inquiry was whether or not military personnel who had not acquired residence in the state can be required to pay the registration fees for house trailers parked on non-federal reservations. Your second question was with respect to the necessity for paying vehicular registration fees on house trailers owned by non-military personnel which are declared by the owners not to be intended for use on the highways and which are not permanently affixed to the ground.

{\*82} The answer to your first question is that trailers owned by military personnel as personal property and not being motor vehicles, are free from taxation under the provisions of Section 514 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 574), except by the state of domicile of the owner. It is possible that the vehicle could become real property so as to be taxable as such without regard to the Soldiers' and Sailors' Civil Relief Act. The provisions of Section 64-11-14, N.M.S.A., 1953 Compilation, contemplate this possibility, permitting ad valorem taxes to be assessed when a trailer has had its wheels removed and been placed on a permanent foundation. The practical problem is what constitutes "a permanent foundation".

The answer to your second question is that house trailers belonging to non-military personnel must bear current registration plates of this or another state regardless of intended use so long as they maintain their characteristic of being a mobile home.

The answer to your first question is governed by the applicable provisions of the Soldiers' and Sailors' Civil Relief Act. They have been interpreted to mean that a tax of the type levied under our motor vehicle law requiring registration of house trailers when levied upon a person in the military service, are personal property taxes and thus a prohibited levy by a state other than the domiciling one. **Dameron v. Brodhead** (345 U.S. 322); **Woodroffe v. The Village of Park Forest** (107 Fed. Supp. 906).

The answer to your second question is found in State Statutes. Section 64-3-2, N.M.S.A., 1953 Compilation, Subsection (g) states:

"(g) Every house trailer shall be subject to the registration and certificate of title provisions of this act and **each house trailer shall at all times bear current registration plates.**" (Emphasis supplied.)

The language of the statute covering house trailers is unequivocal. The non-military person owning such a vehicle must either have current plates from another state or country or be currently registered in New Mexico.

In this connection I wish to point out the 1959 Legislature amended the provisions of Section 64-6-1, N.M.S.A., 1953 Compilation, by their enactment of Chapter 156 of the Laws of 1959, effective March 31, 1959. This limits nonresidents to a fixed period of thirty (30) days in the state before they are required to register their vehicles in this state when they have current registration plates from another state or country. The amendment also removed certain exceptions from this section of law which had been adjudicated as making part of this section of doubtful validity. **State v. Pate**, 47 N.M. 182.

The duty of a county assessor to place a house trailer on the property tax rolls is limited to assessing it as a part of the realty to which it has become affixed. This authority would exist even without the provisions of Section 64-11-14, although this section provides a useful guide. The question is one of when the trailer ceases to be such and becomes a house.

Under current regulations the state motor vehicle commissioner has established a standard for the benefit of field men to the effect that they may consider as real property any trailer type home which has become immobile by virtue of a permanent foundation being built to support it and the wheels removed. It is my view that the county assessors must adopt a similar standard to determine whether or not they will require the rendering of the trailer home as an improvement on the real estate by virtue of its immobility and affixation. It is not an optional matter with the owner of the trailer as to whether it will be rendered as real property or registered as a vehicle. In each case it will be determined factually by the nature of the foundation placed under {\*83} it, coupled with the removal of the wheels.