

Opinion No. 67-101

August 15, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Mr. Filberto Ruiz, Jr. Director New Mexico Veterans' Service Commission P.O. Box 2324 Santa Fe, New Mexico

QUESTION

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Is an unremarried widow of an eligible Vietnam veteran entitled to a tax exemption certificate under Section 72-1-11, New Mexico Statutes Annotated, 1953 Compilation, amended by the 1967 session of the legislature?

CONCLUSION

Yes.

OPINION

{*147} ANALYSIS

Section 72-1-11, N.M.S.A., 1953 Compilation was amended by Chapter 42, Laws of 1967 to include the following which appears as the last paragraph of the section:

"Provided, further, that any soldier who was a resident of New Mexico at the time of entry into the armed services from New Mexico and who has been awarded a Vietnam campaign medal for service in the armed forces of this country in Vietnam during the period from August 5, 1964 to the official termination date of the end of the Vietnam conflict shall be allowed such exemption."

In our opinion, this paragraph defines the residence requirements for Vietnam veterans just as the residence requirements for World Wars I and II and the Korean conflict veterans are defined in the act. It is clear that Vietnam veterans fall within the definition of "soldier" which is the first sentence of Section 72-1-11. That definition reads:

"'Soldier' shall include every honorably discharged member, of either sex, of the armed forces, who served in the armed forces of the United States on active duty continuously for ninety days at any time during any period in which the military forces were engaged in armed conflict under orders of the president of the United States, or who served in the armed forces of the United States on active duty continuously for ninety days, any part of which occurred during a period in which the military forces were 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 who were or became residents of the state of New Mexico as hereinafter provided."

{*148} Following this definition are the residence requirements for veterans of World Wars I and II and the Korean conflict. The section then contains the following proviso:

". . . and provided, further, that such honorably discharged members of the armed forces shall also include resident unmarried widows of such resident honorably discharged members of the armed forces. . . ."

This proviso, in our opinion, is part of the definition of "soldier" quoted above. It therefore follows and it is our opinion that the term "soldier" in the last paragraph has the same definition for Vietnam veterans as it does for the other veterans and this includes the proviso for resident unmarried widows. Therefore, in our opinion, a resident unmarried widow of a resident honorably discharged Vietnam veteran is within the definition of "soldier" in Section 72-1-11 for tax exemption purposes.

By: Roy G. Hill

Assistant Attorney General