

Opinion No. [29-51]

October 23, 1929

TO: Office of the Attorney General of New Mexico

MOTOR VEHICLES -- Registration -- reduction of fees to certain "soldiers". Chap. 119, Laws of 1929.

OPINION

Before me is your letter of the 22nd inst. requesting an interpretation of section 28(k) of chapter 119 of the Session Laws of 1929. I also have copies of application blanks prepared by your office for use in the registration of motor vehicles for the year 1930. You refer to the statute as an amendment of chapter 130 of the Laws of 1923 and ask specifically whether or not it would be legal to allow each exsoldier an exemption on the license fee as shown therein.

Chapter 119 of the 1929 Session Laws is entitled "An Act Relating To The Registration of Motor Vehicles, Trailers and Semi-Trailers and Providing That When The Registration Fees Fixed By This Act Are Paid, Such Vehicles Shall Not Be Assessed Upon The Property Tax Rolls."

Section 28(k), Title V of the act reads as follows:

"Every person who by the terms and provisions of Chapter 130 of the Laws of 1923 is entitled to an exemption of taxable property of a total value of \$ 2,000. and who has not for the year in which he may be liable for the payment of a registration fee under the provisions of this section claimed or received such exemption on real or personal property shall pay under this section registration fees at 2-3 the above rates on one or more cars of which he is the owner and entitled to property tax exemption by the terms of said Chapter 130 of the Laws of 1923. Such person shall make affidavit that in any claim of exemption thereafter, during such year he will set forth the amount of reductions so received which shall reduce the amount of benefits received from such exemption to that extent. No such person shall receive any reductions of registration fees in a greater sum during any one year than an amount equal to the tax levied on \$ 2,000 of property in the school district in which he resides; provided further that no license shall be issued to any such person for use of any motor vehicle or motor truck for any full period of one year, for a registration fee of less than \$ 10.00."

Having thus far examined the act we note that it is not an amendment of a previous act but new and direct legislation and note farther that the section above quoted makes no reference to "ex-service men" and makes no provision for **exemption** from the payment of a registration fee. The section does, however, provide for a **reduction** in the amount of registration fees to be paid by certain persons, such persons being described as "any person who by the terms and provisions of Chapter 130 of the Laws of 1923 is entitled

to an exemption of taxable property of a total value of \$ 2,000 and who has not for the year in which he may be liable for the payment of a registration fee claimed or received such exemption on real or personal property."

In order, then, to ascertain what persons are entitled to a **reduction** in registration fee we turn to chapter 130 of the Laws of 1923 to discover that the persons entitled to an exemption of taxable property of the value of \$ 2,000 are called "soldiers" and are defined by section 1 of that act as follows:

"'Soldier' shall mean every honorably discharged soldier, sailor, marine and army nurse resident of New Mexico and who served in the armed forces of the United States for thirty days or more at any time in which the United States was officially engaged in any war, including resident unmarried widows of such soldiers, sailors and marines."

You will note that the term "soldier" includes more than ex-service men and it is suggested that the wording "ex-service men exempted" as used on your application blanks may prove misleading to persons not already informed that no one is exempt from the payment of a registration fee on motor vehicles for which such fee is provided in section 28 and informed that those entitled to a **reduction** in fee include others than ex-service men.

It may be well also to note that the words "entitled to exemption of taxable property" as employed in section 28(k) are used only in connection with the designation of persons entitled to a **reduction** in **registration fees**. By reference to section 32 of the act we discover that **all** motor vehicles upon which a registration fee is paid are exempt from taxation. Neither the "soldier" nor any other one required to pay a registration fee is required to pay any taxes on the motor vehicle registered. Section 32 reads as follows:

"No vehicle upon which the registration fees (are) herein provided to be paid shall be assessed or taxed upon any property assessment rolls in this State for the period for which such fees are paid."

A "soldier", as above defined, who has not claimed or received a "soldier's" exemption on taxable property (which does not include motor vehicles) is entitled to and should be permitted to register his motor vehicle upon the payment of 2-3 of the fee required of those who do not fall within that definition. That is, he receives a **reduction** in the fee but in order to receive such reduction he must make affidavit that in any claim of exemption thereafter during such year he will set forth the **amount of reduction** so received and by section 28(1) it is made the duty of the Motor Vehicle Commissioner to certify to the proper county assessor the **amount of reduction** received by such soldier. We thus see that the Motor Vehicle Commissioner has nothing whatever to do with exemptions from taxation and see farther that "exemptions from taxation" cannot apply to motor vehicles registered, for the simple reason that such motor vehicles are not subject to taxation.

A "soldier" may claim his "exemption" on property real or personal listed by him with the proper assessor for taxation but as above stated with this the Motor Vehicle Commissioner has nothing to do. It is his duty, however, to report to the proper assessor in each instance any reduction in registration fee claimed by and allowed to a "soldier"; this in order that the assessor may perform his duty in reducing the amount of benefit to be received by such soldier in connection with the assessment of his taxable property.

You will, of course, note that no one "soldier" may receive **reductions** in any one year in excess of the amount of tax levied on \$ 2,000 of property in the school district in which he resides and no "soldier" may receive a license for a full year for a registration fee of less than \$ 10.00.

We, therefore, conclude that **registration fees** shall be collected for the registration of **all** trailers, semi-trailers and motor vehicles, other than tractors, for the year 1930 as listed in Chapter 119, Section 28, of the Laws of 1929, except that:

1. A "Soldier", as defined by Chapter 130, Laws of 1923, has **under certain conditions** to pay but 2-3 of the amounts there listed.
2. Soldiers who claim or receive tax exemptions pay full registration fees.
3. A soldier claiming reduction in registration fee must make the affidavit required by section 28(k).
4. No soldier may receive in one year reductions totaling more than the amount of taxes levied on \$ 2,000 of taxable property in his school district for that year.
5. No soldier's registration fee shall be less than ten dollars (\$ 10.00) for a full year.
6. Motor vehicles upon which registration fees are to be collected are exempt from taxation.
7. Any reduction in registration fees allowed must be reported by the Commissioner to the proper county assessor and if the soldier claims a tax exemption he also must report to his assessor the amount of such reduction or reductions received by him.