

Opinion No. 34-730

February 15, 1934

BY: E. K. NEUMANN, Attorney General

TO: State Tax Commission, Santa Fe, New Mexico. Attn.: Mr. Benj. D. Luchini.

{*117} Referring to your letter of February 14, 1934, regarding an interpretation of Section 141-1101, 1929 Code, relating to exemptions of inheritance taxes paid on the passing of estates of deceased persons in this state.

Said Section, in its entirety, relates to exemptions and the manner in which they shall be computed by your department. The first part of said section provides for an exemption of \$ 10,000.00 on estates passing to kindred of the first class, using the following words: "The estate * * * to the amount of \$ 10,000.00 * * * shall be exempt from the payment {*118} of any succession tax." Later on in the Act, we find another exemption in the following words: "also every estate not exceeding five hundred dollars in amount or appraised value passing to other kindred or strangers to the blood or to a corporation * * * shall be exempt from the payment of any succession tax."

To my mind, this simply means that, in cases where the estate passes to Class 1, as set up by statute, only that amount in excess of \$ 10,000.00 is subject to succession tax, and in cases where it passes to Class 2, **all of the estate** is taxable, unless it is less than \$ 500.00 in amount or appraised value. Perhaps the following illustrations might show the distinction.

Case 1. Estate of \$ 100,000 goes to wife of deceased. Exemption \$ 10,000, leaving \$ 90,000 subject to inheritance or succession tax.

Case 2. Estate of \$ 100,000 goes to friend of deceased. Exemption **nothing**, leaving \$ 100,000 subject to inheritance or succession tax.

Case 3. Estate of \$ 500 goes to friend of deceased. Exemption \$ 500. No tax to pay.

Trusting the foregoing sufficiently answers your questions, we are