

Opinion No. 43-4209

January 7, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. C. R. Sebastian, State Comptroller Santa Fe, New Mexico

In your letter dated January 6th, 1943, you inquire whether a person who is the head of a family may claim his family exemption although he leaves the state for a period of from six months to a year. ,

Section 76-104 of the 1941 New Mexico Compilation provides in part as follows:

"There shall be exempted from taxation property of each head of a family, resident in the state of New Mexico, to the amount of Two Hundred Dollars (\$ 200.00), providing that the person claiming such exemption shall make a return of his property for taxation and shall make oath that he or she is such head of a family, a resident of the state, and has not claimed and will not claim such exemption in any other county for the current year."

So long as a taxpayer, who is a head of a family, maintains his legal residence in New Mexico, he is entitled to claim the family exemption on property taxes. The length of time he is absent from the state is not decisive provided he does not establish residence elsewhere and intends to return to this state.

By C. C. McCULLOH,

First Asst. Atty. General