

**Opinion No. 43-4234**

February 13, 1943

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. A. J. Robertson, Tax Assessor, Las Cruces, New Mexico

Receipt is acknowledged of your letter dated February 10, 1943, enclosing a letter to you from Herman Pitts dated February 9, 1943, in which he states that he enlisted in the New Mexico National Guard on June 1, 1916, and that the National Guard then was mustered into Federal Service and was in action along the Mexican border. He has an honorable discharge from the New Mexico National Guard dated May 1, 1917, and is now seeking ex-soldiers' exemption.

The United States was not officially engaged in war until April 6, 1917, and if Mr. Pitts was actually in the Federal Service he was not in such service for thirty days during the time this Government was officially at war. For that reason he is not entitled to have ex-soldiers' exemption allowed to him on the basis of such service.

I am returning herewith his letter to you and the photostatic copy of discharge from the New Mexico National Guard.

By C. C. McCULLOH,

First Asst. Atty. General