

Opinion No. 43-4387

September 29, 1943

BY: EDWARD P. CHASE, Attorney General

TO: Mr. Frank O. Westerfield, Judge Advocate, The American Legion Department of New Mexico, First National Bank Building, Albuquerque, New Mexico

Receipt is acknowledged of your letter dated September 27, 1943, asking three questions, as follows:

"(1) The rights of soldiers in the present war to tax exemption in this state.

"(2) Recording of discharge papers in the County Clerk's office without payment of a fee.

"(3) Certified copies of birth and death certificates without a fee."

I am enclosing copies of opinions numbered 4323 and 4258, dealing with question No. 1. Under these opinions a soldier of the present war having an honorable discharge is entitled to tax exemption; however, a soldier in active service is not entitled to such exemption, under the language of the Constitution.

I am enclosing copies of opinions numbered 4255 and 4310, which answer question No. 2.

In answer to question No. 3, Section 71-401 of the 1941 Compilation, in paragraph 4, provides that the director shall not collect fees for certified copies of birth and death certificates furnished to veterans of any wars when such certificates are required by such veterans for the making of claims against the government. In view of this language it seems clear that soldiers serving in the present war would have to be honorably discharged and would pay no fee for certified copies of birth and death certificates only when such certificates are required for making claims against the government; otherwise, soldiers would have to pay the same fees as anyone else for certified copies.

By C. C. McCULLOH,

First Asst. Atty. General