

Opinion No. 46-4965

November 21, 1946

BY: C. C. McCULLOH, Attorney General

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

{*285} We are in receipt of your letter of recent date in which you state that an ex-soldier married an ex-army nurse, and that both husband and wife are claiming an ex-serviceman's \$ 2,000.00 exemption. You ask our opinion as to whether the parties should be allowed a \$ 2,000.00 exemption each, that is to say, \$ 4,000.00 in all, or should only be allowed a \$ 2,000.00 exemption between them.

Section 76-111 of the N.M. 1941 Compilation defines soldiers to include honorably discharged soldiers and army nurses.

Section 76-113 of the N.M. 1941 Compilation provides that real and personal property of every soldier shall be exempt from taxation in the sum of \$ 2,000.00. Thus, the exemption is given to the soldier, as defined in Section 76-111, as a personal exemption.

It is therefore my opinion that if both the husband and wife are soldiers within the meaning of Section 76-111, that each may hold exempt his or her property to the sum of \$ 2,000.00, so that between the two, they could hold exempt from taxation property in the sum of \$ 4,000.00.

It is further my opinion that if the property involved is community property, each may hold exempt his or her one-half interest in the property to the sum of \$ 2,000.00 each, so that as to such property, the two may hold the same exempt to the sum of \$ 4,000.00. The same would be true of property held by them as joint tenants, or as tenants in common.

Trusting the foregoing sufficiently answers your inquiry, I am

By ROBERT W. WARD,

Asst. Atty. General