

Opinion No. 57-323

December 17, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

TO: Honorable F. Wayne Laws, Chief Tax Commissioner, Santa Fe, New Mexico

QUESTION

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1. Is it required that an otherwise qualified veteran have the certificate of eligibility, provided for in Section 72-1-20, N.M.S.A., 1953 Comp., 1957 Supp, in order to be entitled to his exemption for 1958?
2. For the year 1958, is an ex-soldier entitled to be granted his soldier's exemption where he does not claim same, although he appears on the Assessor's list of veterans entitled to exemption, as held in Dillard vs. State Tax Commission, 53 N.M. 12?

CONCLUSIONS

1. No.
2. No.

OPINION

ANALYSIS

In regard to your first question, Section 72-1-20, N.M.S.A., 1953 Compilation, 1957 Supplement, enacted as Laws 1957, Chapter 169, Section 6, provides as follows:

"Each resident soldier in New Mexico entitled to claim a soldier's exemption shall obtain from the veterans service commission a certificate of eligibility which shall show: the name and current address of the veteran; the date residence was acquired in the state; the period of time during which the soldier served in the military forces of the United States and such other information as the veterans service commission may deem necessary and proper for informing the county assessors of the soldier's eligibility to receive the tax exemption. On the reverse side of the certificate of eligibility the form shall provide space for the entry of information by the county assessor, motor vehicle license distributors and other tax collectors for the entry of information showing the date, amount and character of the exemption claimed and granted, and such other data as may be pertinent thereto. **No soldier's exemption shall be granted any soldier after January 1, 1959, without the presentment by the soldier, or his widow, of a**

certificate of eligibility, and the entry of the proper notation on it by the assessor or collector of taxes and licenses. Each county assessor shall on or before July 1st of each year provide the veterans service commission with the original copy of the list which the county assessor is required to prepare annually pursuant to the provisions of 72-1-14 and the veterans service commission shall send to each of the county assessors a list of soldiers resident of that county who have secured certificates of eligibility from his office. The veterans service commission in providing certificates of eligibility is authorized to commission the several county clerks, county assessors, vehicle license distributors, the department and post officers of the American legion, veterans of foreign wars and disabled American veterans to assist it." (Emphasis supplied.)

By its terms this section does not require the certificate in order for the otherwise qualified veteran to claim his exemption in regard to 1958 taxes. But another provision of law must be closely scrutinized in order to dispose of the matter. We refer to the third sentence of Section 72-1-14, N.M.S.A., 1953 Compilation, 1957 Supplement, providing:

". . . No exemption shall be granted by the assessor to any soldier unless at the time of the declaration of the property and assessment of the same the soldier submits to the assessor a certificate of eligibility as prescribed in Section 72-1-20, N.M.S.A., 1953 Compilation, showing that the soldier is entitled to the exemption claim; further the assessor shall note on the back of the certificate of eligibility the amount and character of exemption granted the applicant and whether it involves real or personal property. . . ." (Emphasis supplied.)

and which was first enacted in Laws 1957, Chapter 169, Section 3.

At first blush, it might be thought that the two above quoted provisions of law result in a conflict as to when the certificate requirement becomes effective. We do not think so. Both provisions were enacted at the same legislative session, and are thus peculiarly in pari materia. *State v. Fidelity & Deposit Co. of Maryland*, 36 N.M. 166, 9 P. 2d 700. Each and every part of the statute, here Laws 1957, Chapter 169, where possible, must be given effect to the end that reconciliation will be achieved, *Cox et al. vs. City of Albuquerque*, 53 N.M. 334, 207 P. 2d 1017, and since both parts of Chapter 169 here construed relate to the same subject, they are to be considered together. *Mann v. Board of County Commissioners of Bernalillo County*, 58, N.M. 626, 274 P. 2d 145.

Now, it may generally be said that Laws 1957, Chapter 169, except to the extent otherwise specifically provided, went into effect June 7, 1957. Opinion of the Attorney General No. 57-50 dated March 14, 1957. But bearing in mind the rules of statutory construction announced by our Supreme Court and the fact that the third sentence of Section 72-1-4, supra, expressly refers to Section 72-1-20, supra, by use of ". . . a certificate of eligibility as prescribed in Section 72-1-20. . .", we conclude the answer to your first question must be in the negative.

As to your second question, it is true *Dillard v. New Mexico State Tax Commission*, 53 N.M. 12, 201 P. 2d 345, held that a veteran whose name appeared upon the assessor's

list, but did not claim his exemption, did not thereby waive the exemption and that the same should have been allowed, basing its reasoning upon what now appears as the first sentence of Section 72-1-14, supra, which provides:

"The county assessors shall annually prepare a list of soldiers resident in their respective counties entitled to the exemption and shall allow said exemptions to the soldiers whose names appear in the list. . . ."

However, the second sentence of said section was enacted as part of Laws 1957, Chapter 169, Section 3, and it provides:

". . . The list shall be prepared from the declarations provided the assessor pursuant to section 72-2-3 New Mexico Statutes Annotated, 1953 Compilation, **and in the event a soldier fails to declare his property as required by law, the assessor shall notwithstanding proceed to make such assessment, but shall omit the granting of the exemption . . .**" (Emphasis supplied.)

We believe the emphasized language does abrogate the holding in the Dillard case, insofar as this question is concerned. In other words, exemption as to 1958 taxes must be duly claimed.