

Opinion No. 57-321

December 16, 1957

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

TO: Honorable Paul W. Robinson, District Attorney, Second Judicial District, Bernalillo County Court House, Albuquerque, New Mexico

QUESTION

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If a veteran, entitled to his exemption, should own property on January 1st, is such property subject to the exemption for the entire year, even though the veteran disposes of the property during the year?

CONCLUSION

No.

OPINION

ANALYSIS

In Opinion of the Attorney General No. 4945, dated August 23, 1946, it was held that January 1st of each year is the date which determines the condition or status of the taxability of property, and that if a veteran entitled to his exemption should own property on that date, the same would be exempt for that year, regardless of the fact that he might dispose of that property during the year.

But the Legislature, by virtue of Laws 1957, Ch. 169 § 4, enacted what is compiled as § 72-1-16B,, N.M.S.A., 1953 Compilation, 1957 Supp., which provides:

"In the event the veteran sells or otherwise disposes of his property either by the execution of a deed or a real estate contract or any other instrument or conveyance, he shall immediately notify the county assessor of the sale or other disposal of the tax exempt property. **On receipt of the notice, the county assessor shall immediately note the transfer on his assessment rolls and tax the property for the remaining portion of the year at its declared tax value without credit for the tax exemption.** However, if the sale or transfer is to another veteran who is entitled to the tax exemption, the assessor upon proper application and proof shall allow the exemption to be continued in force." (Emphasis ours),

and which clearly indicates that the result reached in Opinion of the Attorney General No. 4945, supra, has been abrogated, i.e., ownership on January 1st, by a veteran, does not mean that the exemption applies throughout the entire year.

We believe the language ". . . . for the remaining portion of the year" demands taxation of the property, when sold subsequent to January 1st., on a prorated monthly basis. This will necessitate a supplementary assessment notice to the grantee of the veteran. Of course, on the basis of pro-ration the veteran could take advantage of his exemption (pro-rated); the nonveteran grantee could not.