

## **Opinion No. 17-2012**

July 2, 1917

**BY:** HARRY L. PATTON, Attorney General

**TO:** State Tax Commission, Santa Fe, New Mexico.

Personal Property of Army Officer Subject to State Taxation

### **OPINION**

This is in reply to your recent letter in which you ask for an opinion with reference to the liability for taxation in this State of personal property of a person detailed at the New Mexico Military Institute by the War Department. You further say that you have some recollection of a decision of the Secretary of War and which in effect was such that where an officer of the army is stationed or on duty in the several states his personal property is not subject to state taxation on the ground that it is exempt from state taxation as an instrumentality of the Federal Government.

I do not find such to be the rule. On the contrary, in the Digest of Opinions of the Judge Advocate, June, 1912, page 1021, it was substantially held that an officer or soldier of the army, though not taxable officially, may be and often is taxable personally. He is not taxable by a state for his pay, or for the arms, instruments, uniform clothing, or other property pertaining to his military office or capacity, but as to household furniture and other personal property, not military, he is (except where stationed at a place under the exclusive jurisdiction of the United States,) equally subject with other residents or inhabitants to taxation under the local law.

This doctrine was also announced in the case of *Finley v. City of Philadelphia*, 32 Pa. St. 381.

I am disposed to follow the rule announced, and conclude with the Judge Advocate General, that a soldier's personal property except as above stated, is subject to taxation under our state law.