

Opinion No. 23-3727

August 9, 1923

BY: JOHN W. ARMSTRONG, Assistant Attorney General

TO: Requested by: Hon. J. E. Saint, Chief Tax Commissioner, Santa Fe, New Mexico.

Husband of a War Nurse not Entitled to Claim Exemption, Etc.

OPINION

{*78} The questionnaire submitted by you, through Captain Fornoff, and answers thereto are as follows:

1. Q. A mother whose son died in France claims exemption.

A. No exemption allowable.

{*79} 2. Q. A father whose son died in France claims exemption.

A. No exemption allowable.

3. Q. The husband of a war nurse claims exemption.

A. No exemption allowable.

4. Q. A soldier claims exemption on his interest in his father's estate.

A. If father is living, no exemption is allowable, -- if the father is dead, soldier should establish his right by proper court procedure and the claim of exemption should then be allowed.

5. Q. Civil war widows claim exemption.

A. Such claims should be allowed.

6. Q. Soldiers who were immediately discharged from service account of physical disability claim exemption.

A. Such soldiers are entitled to the exemption, provided they served in the armed forces of the United States for at least thirty days and were honorably discharged. An honorable discharge includes furloughs to the reserve or order relieving a member of the reserve from active duty.

7. Q. Soldiers claim exemption whose property is in the name of their wives.

A. All property of a wife owned by her before marriage and that acquired afterwards by gift, bequest, devise or descent, with the rents, issues and profits thereto is her separate property. -- Sec. 2757 Code 1915. Whenever any property is conveyed to a married woman by an instrument in writing the presumption is that title is thereby vested in her as her separate property. -- Sec. 2764 Code 1915. The exemption may not be allowed if same be claimed on the separate property of the wife as defined by the foregoing two sections of the 1915 Code.