

Opinion No. [29-118]

May 16, 1929

BY: M. A. OTERO, JR., Attorney General

TO: Hon. W. D. Bryars, Alamogordo, New Mexico.

TAXATION -- Soldier's exemption; "residence" defined.

OPINION

I am just in receipt of your favor of the 14th inst. asking me to give you my opinion as to the meaning of the words "resident of New Mexico," as contained in the ex-service men's tax exemption law, (Section 1, chapter 130, Laws of 1923).

In reply thereto will say that I do not believe that a man has to actually reside in a particular place in order to maintain a residence there which he has already established. In other words, if a man has once established a certain place as his residence, and he, himself, considers it as such, and this is evidenced by the fact that he has purchased property at that place, then I believe that he is privileged to move about in other places, if he so desires, and still maintain his residence at that place, **provided**, that he does not in the meantime establish a residence in some other state. He would, of course, do this if he registered and voted in the other state. In such event he would lose his old residence and, before he could claim it again, he would have to come back to New Mexico and re-establish it by a residence of one year in the State, ninety days in the county and thirty days in the precinct.

In the example which you set forth in paragraph 2 of your letter, I should say that the man you have in mind has not necessarily lost his residence in New Mexico unless he has registered and voted in the new State to which he went. You understand, of course, that residence is dependent upon the intention of the individual, but this intention is evidenced in a number of ways, including the purchase of property and registering and voting.

Trusting that the foregoing sufficiently clarifies this proposition for you and with kindest personal regards, believe me,