

Opinion No. 31-304

November 9, 1931

BY: E. K. Neumann, Attorney General

TO: State Tax Commission, Santa Fe, New Mexico. Attention: Mr. J. D. Mell.

{*117} We have your letter of November 4th, 1931, inquiring as to whether or not the succession tax on an estate of a deceased World War Veteran can be collected when such estate consists of proceeds from war risk insurance policy.

Section 454, United States Code, Annotated, Title 38, in our opinion exempts such estate from taxation.

In the case entitled Geier's Succession 155 La. 167, 99 So. 26, 32 A.L.R. 353, it was held that the beneficiaries of deceased service men who receive insurance money under the War Risk Insurance Act are not subject to a state inheritance tax. Other cases have held that property purchased with the proceeds of war risk insurance is not subject to execution, and that funds actually paid by the Government to the beneficiary of an insurance policy and deposited in a bank are not subject to garnishment.

In view of all the foregoing, it is our opinion that the money specified in your letter is not subject to succession tax.

B. Frank H. Patton,

Asst. Attorney General