

Opinion No. 38-1904

March 9, 1938

BY: FRANK H. PATTON, Attorney General

TO: Mr. Albert F. Zweifel Fruitland, New Mexico

{*218} I have your letter of March 7th in regard to your application for exemption from certain automobile license plate fees and note your statement that this exemption was refused because of your failure to have your discharge recorded in this state.

The mere fact that you failed to have your honorable discharge recorded would not be grounds for refusing to grant the exemption inasmuch as the right to exemption is a matter of proof and a discharge would only be evidence of your services in the armed forces of the United States.

However, there is another reason why you are not entitled to claim this exemption. Under the law, at the present time ex-servicemen who served in the armed forces of the United States for a period of thirty days or more at any time in which the United States was officially engaged in any war are entitled to a \$ 2,000.00 tax exemption, provided, however, residence must have been acquired in this state prior to January 1st, 1934. This is provided by Chapter 44 of the Session Laws of 1933.

By Chapter 169 of the Session Laws of 1933, paragraph (k) of Section 9, ex-servicemen who are entitled to the \$ 2,000.00 tax exemption and who do not claim such exemption in full are entitled to a two-thirds rate of the usual registration fees on automobiles.

Apparently, it was the intention of the legislature to provide that exservicemen meeting these requirements should have the right to choose whether they should claim the property tax exemption or whether they preferred the two-thirds rate on automobile license fees.

However, apparently you have lost your residence in New Mexico, and have only recently acquired a new residence which was not acquired prior to January 1st, 1934.

Therefore, in meeting the requirements of the real property ex-servicemen's tax exemption law you would not be entitled to the two-thirds rate on your automobile.