

**OPINION  
46-297**

January 30, 1946 (OPINION)

VETERANS

RE: Service Officer

I have your letter of January 25, 1946, in which you say that as county service officer you are asked every day by some war veteran whether or not he could be legally assessed for the school poll tax and for personal property taxes, while in the service, if he did not possess any personal property other than the clothing which he had to store or discard when he enlisted or was inducted.

Section 57-1523 of the North Dakota Revised Code of 1943 provides for a levy each year of a per capita tax of one dollar on each person twenty-one years of age or over "who on the first day of April in such year has resided in the state ninety days or more.\* \* \*"

Section 57-1523 imposes a tax of one dollar on every person, voter and nonvoter, resident or nonresident, citizen or alien, who has resided in the state ninety days or more on April first of any year. It is our opinion that a member of the armed forces, whether stationed in a camp in this country or whether he was overseas, was not liable for payment of the school poll tax prescribed by said section.

Section 37-0127 of the Revised Code provides:

Each member of the North Dakota national guard shall be exempt from the payment of poll tax.\* \* \*"

In 1940 the national guard was federalized, that is to say, each unit of the national guard was mustered into the United States army.

It is our opinion that the intent and purpose of the law was that any soldier, whether a member of the national guard or of the armed forces of the United States, shall be entitled to such exemption. And it is our opinion that such exemption extends to any person in the armed forces, regardless of branch of service.

The statutes do not confer the privilege of exemption from personal property taxes to persons in the service. But I am unable to understand how assessors could determine the value of clothing owned by a person in the service. Such person could not make a disclosure of the clothing he or she owned. Certainly clothing or other equipment furnished by the government could not be assessed. And, as for civilian clothing, most of the returning veterans have had to buy new clothes on their return home from the service. The civilian clothes which they had when they entered no longer fit.

But the only way that a veteran can get redress is to pay such personal property under protest and then ask for a refund or file a petition with the county auditor for abatement.

NELS G. JOHNSON

Attorney General