

OPINION
53-78

December 10, 1953 (OPINION)

MOTOR VEHICLES

RE: Registration When in Military Service

This office acknowledges receipt of your request for an opinion relative to the applicability of Section 39-0404 with reference to the registration of motor vehicles owned and operated by a person in military service now stationed in the State of North Dakota, but whose home and residence is in the State of Ohio.

In checking into this matter, we find that the 1942 Congress passed an act declaring that for the purpose of taxation in respect to any person or of his property by any state, territory, possession or political subdivision of any of the states within the United States or District of Columbia, such person when in the military service shall not be deemed to have lost a residence or domicile in any state, territory, possession, or political subdivision, solely by reason of being absent therefrom in compliance with military or naval orders nor shall he be deemed to have acquired a residence or domicile in, or to have become resident in any other state or territory. In 1944 Congress added an amendment thereto which declared, "personal property shall not be deemed to be located or present in or to have a situs for taxation in such state, territory, possession, or political subdivision, or district."

The Supreme Court of the United States in the matter of Dameron v. Brodhead, 97 U.S. L.ed. page 606 held, among other things, that the said act was constitutional and within the powers authorized whereby Congress, due to its war powers, would be authorized to so deal with the subject. The Supreme Court of the United States held that this law in no way affects the reserved powers of the states to tax. This because of the fact that this federal statute merely states that the taxable domicile of servicemen shall not be changed by military assignments.

It is therefore the opinion of this office that any person in military service whose residence is in some other state may register his motor vehicle in his home state and as long as such registration is current, that the State of North Dakota may not impose any further registration for the privilege of operating the said vehicle on the highways of North Dakota.

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