

**OPINION
61-241**

March 23, 1961 (OPINION)

TAXATION

RE: Exemptions - Pensions Not Income

This is in response to your letter in which you state that the 1961 Legislature, through House Bill No. 787, amended subsection 21 of section 57-02-08, by adding after the words "totally disabled" the following language: "who have income of less than \$100.00 per month."

You advise that some of the individuals concerned might be veterans who are receiving disability pensions from the Federal Government. We are assuming that the pensions referred to are for disabilities resulting from service connected injuries. You then ask the question, should the compensation and pension benefits be included in computing the \$100.00 set out in the amendment?

The term "income" has various meanings depending upon the manner in which it is used. Quite frequently it refers to income resulting from services rendered. The term "income" has also been defined for exemption purposes as proceeds of labor or the receipts of a profession, business, or occupation. The term "income" in related matters was defined by the North Dakota Tax Department in the 1960 Assessment Manual, page 23, to include salary or wages, retirement benefits of any kind or any earnings from property. It is observed that disability pensions were not included in the term "income."

Inasmuch as the term and amount are used in a section pertaining to the exemption of property from taxation and are used in connection with statutes relating to taxation, we are inclined to believe in this instance that the Legislature, by setting an amount, referred to income as understood in its general meaning and as previously construed by the Tax Department as noted above. Being that pensions for disability are tax-exempt, both state and federal, lends support to our belief that the \$100.00 referred to is exclusive of such pension awards.

We can readily visualize instances where disabled blind veterans are eligible and receive a disability pension of \$100.00 or more a month are not being out of the ordinary. If the figure of \$100.00 were to include such pension accounts, it would in fact deprive such individual of any tax exemption under chapter 57-02. We are sure that the Legislature did not anticipate or expect to reach such results.

It is therefore, our opinion that the language, "who have income of less than \$100.00 per month," does not include pension or disability benefits received from the Federal Government. To state it another way, the \$100.00 would have to be computed exclusive

of any disability pension awards received from the Federal Government and would be computed on income received from personal services and labor or receipts from a profession, investments, business or occupation.

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