

is specifically conditioned upon a series of provisos, set forth in paragraph 5 of Article II, all of which have for their specific intent and purpose the protection and safeguarding of equities and benefits held as of December 30, 1954 by members of the present State Employees' Retirement System. These specific provisions, in our opinion, adequately and legally accomplish this purpose.

The power of the Legislature to provide in a new pension act for the safeguarding of pre-existing equities and benefits was approved by the Supreme Court in *Seire v. Police and Fire Pension Commission of Orange*, 6 N. J. 586, at 591, in which case the Court speaking of a 1944 pension act, held as follows:

"By the 1944 act, the Legislature created a statewide pension system for full-time policemen and firemen designed to ensure the uniform protection of all such public officers through the medium of pensions payable from a fund maintained upon a sound actuarial basis. The Legislature recognized the financial burden imposed on municipalities by pension funds operating within the scope of the earlier legislation and sought to reduce it. For the protection of those persons who were members of existing municipal funds and were disqualified by age or ill health to become members in the state fund, the municipal funds were permitted to continue in existence."

Yours very truly,

GROVER C. RICHMAN, JR.
Attorney General

By : DANIEL DE BRIER
Deputy Attorney General

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OCTOBER 11, 1954.

HON. ARCHIBALD S. ALEXANDER
State Treasurer
State House
Trenton, New Jersey

FORMAL OPINION 1954—No. 20.

DEAR MR. ALEXANDER:

You have asked our opinion as to the proper method of computing the tax exemption of an honorably discharged veteran who, on October 1st of the pretax year, is the owner of vacant property assessed at less than \$500, and who, thereafter, during the tax year, improves the property by the erection of a building. Your request assumes that the veteran has complied with all statutory prerequisites for exemption.

The veteran's exemption is provided for in Article VIII, Section I, Paragraph 3 of the Constitution of 1947, as amended, which reads in part as follows:

"Any citizen and resident of this State now or hereafter honorably discharged or released under honorable circumstances from active service, in time of war or of other emergency as, from time to time, defined by the Legislature, in any branch of the Armed Forces of the United States shall be exempt from taxation on real and personal property to an aggregate assessed valuation not exceeding five hundred dollars (\$500.00), which exemption shall not be altered or repealed." * * *

The legislature has set up the mechanics and procedure for making claim for, and allowance of, the veteran's exemption (N. J. S. A. 54:4-3.12i to N. J. S. A. 54:4-3.12u). N. J. S. A. 54:4-3.12n provides in part, as follows:

"Every fact essential to support a claim for exemption hereunder shall exist on October first of the pretax year and in the case of an application by a veteran such application shall establish that he was, on October first of the pretax year, (a) a veteran, as herein defined, (b) the owner of the legal title to the property on which exemption is claimed and (c) a citizen and resident of this State" * * *.

The question posed by you arises only where a veteran owning vacant land on October 1 of the pretax year does not "use up" his entire exemption because the vacant land is assessed at a valuation of less than \$500. If he should then, within the tax year, complete the construction of a building on the land, his property would be subject to an added assessment under the provisions of the "Added Assessment Law" (N. J. S. A. 54:4-63.1 to N. J. S. A. 54:4-63.11). The section of that law which is applicable where the building is completed during the tax year is N. J. S. A. 54:4-63.3 which provides in part as follows:

"* * * when any parcel of real property contains any building or other structure which has been erected, added to or improved after October first and completed between January first and October first following, the assessor shall, after examination and inquiry determine the full and fair value of such parcel of real property as of the first of the month following the date * * * of such completion, and * * * if such value so determined exceeds the assessment made as of October first preceding, the assessor shall enter an assessment, as an added assessment against such parcel of real property, in the 'Added Assessment List, 19,' which assessment shall be determined as follows: by multiplying the amount of such assessment or such excess by the number of whole months remaining in the calendar year after date of * * * such completion, and dividing the result by twelve."

The added assessment, under this section, is the quotient resulting from the application of the formula set out in the section. In our opinion, the "unused portion" of the veteran's exemption is to be deducted from the added assessment as so defined; it is not to be deducted from the valuation or assessment before the apportionment provided in N. J. S. A. 54:4-63.3.

You have advised that it has been suggested that the veteran should not be entitled to any exemption against an added assessment since the improvement resulting in the added assessment was not in existence on October 1st of the pretax year. The suggestion made has no validity. The added assessment, although it results from the improvement made, is an assessment against the real property of which the veteran was the owner on October 1st of the pretax year.

Of course, the total exemption received by a veteran may not, in any case, exceed \$500 in the aggregate during any year.

Yours very truly,

GROVER C. RICHMAN
Attorney General

By : HAROLD KOLOVSKY
Assistant Attorney General