

JANUARY 22, 1959

MR. JOHN F. CRANE
Deputy State Treasurer
Department of the Treasury
Division of Taxation
State House Annex
Trenton, New Jersey

FORMAL OPINION 1959—No. 8

DEAR SIR:

You have requested an opinion whether a veteran is entitled to a full \$500.00 exemption from the assessed value of his real and personal property, as authorized by the *1947 New Jersey Constitution, Article VIII, Section 1, paragraph 3*, in addition to the \$100.00 exemption provided by statute from the assessed value of household furniture and effects, *L. 1950, c. 185; N.J.S.A. 54:4-3.16*, or whether the amount of the veterans' exemption must be reduced by the amount of the household goods exemption, where the latter is claimed.

The pertinent section of *Article VIII, Section 1, paragraph 3* of the *1947 Constitution* provides:

"3. 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an aggregate assessed valuation not exceeding five hundred dollars (\$500.00)*, which exemption shall not be altered or repealed. * * *" (Emphasis ours).

This provision was implemented by the enactment of *L. 1951, c. 184, secs. 2 and 8 (N.J.S.A. 54:4-3.12(j) and (p))*. The statutes contain the same language as the constitutional provision specifically relating to those resident citizens who are honorably discharged veterans of the Armed Forces of the United States, and reiterate that the exemption therein provided on the assessed valuation of real and personal property should not exceed \$500.00 in the aggregate. Your precise question is whether the constitutional phrase "to an aggregate assessed valuation not exceeding five hundred dollars (\$500.00)," limits the total tax exemption that a veteran may claim to \$500.00, inclusive of the household furniture and effects exemption.

N.J.S.A. 54:4-3.16 provides:

"Household furniture and effects to a value not exceeding one hundred dollars (\$100.00) in amount, when located and used in the residence of the owner thereof, shall be exempt from taxation under this chapter; *provided*, such owner shall be the head of the family and the said household furniture and effects shall be used by such family. Where one residence is occupied by more than one owner of household furniture and effects, not more than one exemption under this section shall be allowed but the amount of each single exemption may be apportioned among the several owners if such an apportionment is requested by the said several owners."

Comparison of this provision with the constitutional provision and supplementing statutes establishing the veterans' exemption illustrates a substantial distinction with regard to the nature of the exemptions granted. The exemption to veterans is based upon the status of the claimant. It was held in *Tippett v. McGrath*, 70 N.J.L. 110 (*Sup. Ct.* 1903), affirmed *o.b.*, 71 N.J.L. 338 (*E. & A.* 1904) that a tax exemption dependent upon the personal qualifications of the property owner must be authorized by the Constitution. Although that case involved exemptions to firemen, its applicability to veterans' exemptions is clear. See *N.J. Turnpike Authority v. Washington Tp.*, 16 N.J. 38, 44-45 (1954). The household furniture and effects exemption, however, is based solely upon the status of the property. It is well established that the Legislature, with regard to exemptions based upon the status of the property as opposed to those involving qualifications of the claimant, may provide for exemptions among particular classifications of property where there is a reasonable basis for such treatment. *Schwartz v. Essex County Board of Taxation*, 129 N.J.L. 129, 132-134 (*Sup. Ct.* 1942), affirmed 130 N.J.L. 177 (*E. & A.* 1943); *General Electric Co. and Division of Tax Appeals v. City of Passaic* (decided December 22, 1958, not yet officially reported). See *Black, Taxation in New Jersey*, §233, p. 364 (5th ed. 1940).

The constitutional exemption given to veterans by virtue of their status as such must be treated as distinct from the legislative exemption allowed for household furniture to heads of families. Thus, the constitutional and statutory limitations upon veterans that no more than \$500 "in the aggregate" be allowed for personal and real property, do not apply to the legislative exemption for household furniture which is enjoyed by both veterans and non-veterans.

A constitutional provision for veterans' exemption must be construed to give full effect to the purpose of the enactment "which is to minimize the burden of taxation upon those persons who honorably served our country * * *." *Sherman v. Quinn*, 31 Cal. 2d 661, 192 P. 2d 17 (*Sup. Ct.* 1948); *Flaska v. State*, 51 N.M. 15, 177 P. 2d 174 (*Sup. Ct.* 1946). In determining the full effect of the exemption the guide is the intent of the voters adopting it. *Flaska v. State, supra*. See *Annotation*, 149 A.L.R. 1485 (1944). Cf. *Teaneck Tp. v. Lutheran Bible Institute*, 20 N.J. 86, 90 (1955); *General Electric Co. and Division of Tax Appeals v. City of Passaic, supra*, dealing with the doctrine that laws granting exemptions must be strictly construed.

The constitutional provision embracing the phrase "in the aggregate" was intended to mean that the total veterans' exemption on both real and personal property wherever located, i.e., in more than one taxing district, was to be \$500.00. There is no basis for implying that the term was intended to affect in any way the \$100.00 exemption on household furniture and effects provided by the Legislature. The latter is based strictly on classification of the property.

It is our opinion, therefore, that the \$500.00 exemption provided by *Article VIII, Section 1, paragraph 3* of the 1947 *New Jersey Constitution* is in addition to the exemption provided by N.J.S.A. 54:4-3.16.

Very truly yours,

DAVID D. FURMAN
Attorney General

By: STEPHEN F. LICHTENSTEIN
Deputy Attorney General