

TAXES OF

SERVICE MEN )

A member of the armed forces stationed in Missouri, but ~~elsewhere~~ elsewhere, is not subject to the payment of a tax on personal property in this state.

June 12, 1951

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FILED

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Honorable W. H. Holmes  
State Auditor  
Jefferson City, Missouri

Dear Mr. Holmes:

We have given careful consideration to your recent request for an official opinion, which request is as follows:

"What exemptions, if any, do members of the United States armed forces, residing permanently or temporarily in Missouri at assessment time, have in connection with their being assessed and subjected to the paying of Missouri real estate and tangible personal property tax?"

The Soldiers' and Sailors' Civil Relief Act of 1940 was passed by Congress to protect the rights of the men in service. This statute is incorporated in pages 96 to 202 of the Appendix to Title 50, United States Code Annotated. Section 560 of this act undertakes to give relief to soldiers and sailors who may default in the payment of their taxes, but no exemptions are provided for in the law.

Section 574 of the act, which defines the rule of law governing the question of legal residence of members of the armed forces, is as follows:

"(1) For the purposes of taxation in respect of any person, or of his personal property, income, or gross income, by any State, Territory, possession, or political subdivision of any of the fore-

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going, or by the District of Columbia, such person shall not be deemed to have lost a residence or domicile in any State, Territory, possession, or political subdivision of any of the foregoing, or in the District of Columbia, solely by reason of being absent therefrom in compliance with military or naval orders, or to have acquired a residence or domicile in, or to have become resident in or a resident of, any other State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, while, and solely by reason of being, so absent. For the purposes of taxation in respect of the personal property, income, or gross income of any such person by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia, of which such person is not a resident or in which he is not domiciled, compensation for military or naval service shall not be deemed income for services performed within, or from sources within, such State, Territory, possession, political subdivision, or District, and 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: Provided, That nothing contained in this section shall prevent taxation by any State, Territory, possession, or political subdivision of any of the foregoing, or the District of Columbia in respect of personal property used in or arising from a trade or business, if it otherwise has jurisdiction. This section shall be effective as of September 8, 1939, except that it shall not require the crediting or refunding of any tax paid prior to October 6, 1942.

"(2) When used in this section, (a) the term 'personal property' shall include

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tangible and intangible property (including motor vehicles), and (b) the term 'taxation' shall include but not be limited to licenses, fees, or excises imposed in respect to motor vehicles or the use thereof: Provided, That the license, fee, or excise required by the State, Territory, possession, or District of Columbia of which the person is a resident or in which he is domiciled has been paid. Oct. 17, 1940, c. 888, Sec. 514, as added Oct. 6, 1942, c. 581, Sec. 17, 56 Stat. 777, and amended July 3, 1944, c. 397, Sec. 1, 58 Stat. 722."

This makes it perfectly clear that a person does not gain a residence in Missouri solely by reason of being stationed within the state on duty as a member of the armed forces of the United States; and no such person is subject to the payment of a tax on his personal property, unless he has actually established permanent residence within the state. This law does not, as a matter of course, undertake to release servicemen from the payment of taxes on real estate. Such taxes are payable by nonresidents as well as by persons who reside within the state, and no exceptions are made in favor of members of the armed forces.

CONCLUSION

It is the opinion of this office that a member of the armed forces of the United States stationed in Missouri on duty, but not actually a resident of the state, is not subject to the personal property tax laws of the state. He is not exempt, however, from the payment of a tax on any real estate that he may own in the state.

Respectfully submitted,

B. A. TAYLOR  
Assistant Attorney General

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APPROVED:



J. E. TAYLOR  
Attorney General

BAT/fh