

MAINE STATE LEGISLATURE

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March 5, 1946

To Fred W. Rowell, Veterans' Affairs

Re: Tax Exemption - Unremarried Widow of Any Veteran Who Is Herself Receiving a Pension.

I have your memo of March 5th supplementing our conversation in my office this forenoon, relating to the interpretation of that part of Subsection X of Section 6, Chapter 81, R. S. 1944, which reads as follows:

"Or the unremarried widow of any veteran who is herself receiving a pension from the United States Veterans Administration."

I have also read Executive Order, Veterans Regulation No. 10, which was signed by President Roosevelt on January 19, 1934, and promulgated under "AN ACT to Maintain the Credit of the United States Government," approved March 20, 1930, and had no application to World War II until the amendment of the 78th Congress approved in 1943. This amendment, so far as it relates to tax exemptions, does not help us any in the interpretation of the Maine statutes.

The Supreme Court of the United States has held on several occasions that a claim for exemption from taxation cannot be supported unless the statute alleged to confer it is so plain as to leave no room for controversy. Central R. & Bkg. Co. vs. Georgia, 92 U. S. 665. Where one relies

"upon an exemption from taxation, both the power to exempt and the statute of exemption must be clear; any doubt or ambiguity must be resolved in favor of the State."

"A doubt in regard to the existence of an exemption from taxation is to be decided in favor of the State."

Bank of Commerce vs. Tenn., 104 U.S. 493.

"Exemption from taxation is never sustained unless it has been given in language clearly and unmistakably conveying a purpose to grant such immunity or exemption, and all doubts upon the question must be resolved in favor of the public."

Covington & L. Turnpike Road Co. vs Sandford,
164 U. S. 578

In other words, the exempting statute must be clear and strictly construed, and the fact that the word "any" occurs before "veteran" in the language quoted has no legal significance so far as the Maine statute is concerned.

As I understand the situation, at the present time there is only one widow of a soldier killed in action who has claimed exemption under Section 6 of Chapter 81, R. S. 1944. She resides in Auburn and owns considerable property, and it would be no hardship on her this year to pay

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her tax, as undoubtedly she received insurance from the United States Government if her husband was killed in the service, and she also receives a pension from the United States Government. I feel that it is my duty to advise you that this matter should be taken care of by legislation and not by writing into the law what you think the legislature intended.

I talked again this noon with Mr. Boyle, Adjutant for the American Legion, and he advised me that he drafted this amendment and intended to cover all situations, and that he has now changed his mind since you talked with him, and perhaps the word "veteran" should cover any unremarried widow of a soldier killed in action. I do not go so much on the question of discharge from the service to make one eligible to be considered a veteran. I base my opinion on the wording of the statute. The opinion I gave the State Assessor on October 18th last was as follows:

"It is my opinion that this exemption mentioned in paragraph 10, Section 6, Chapter 81, does not apply to widows of soldiers killed in action."

I realize the fact that this ruling may cause a hardship in some cases, but we cannot change the construction of the law to take care of a case of this kind which you mention in the city of Auburn; I cannot read in the intent of the legislature.

You mentioned in your memo of March 5th that the character of service of this man who was killed in action "was of the highest degree, since he had given his life for his country." That does not change the wording of the statute, because this man who was killed in action is not asking for the exemption, and the only question is, "Is the applicant an unremarried widow of any veteran who is herself receiving a pension, etc.?"

I am construing the statute strictly, according to the decisions of the Supreme Court of the United States. If you want this changed, you should do so by legislative enactment to clarify the whole section in regard to tax exemptions.

"Exemption from taxation must be expressed in the clearest and most unambiguous language and not left to implication and inference."

Schurz vs. Cook, 148 U.S. 397.

I have made a check of the Federal statutes in regard to veterans and find that there is a difference in the payments and settlements on death in service and the payments and settlements to veterans. I also find that there is a distinction between the burial of service men and of veterans in the Veterans Act; so there is a statutory difference between service men who died in the service and veterans.

Ralph W. Farris
Attorney General

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