

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

OPINIONS

June 22, 1967  
Bureau of Taxation

Ernest H. Johnson, State Tax Assessor

Double exemption for widowed veteran under § 653

*FACTS:*

Several years ago a widow of a veteran became entitled to a tax exemption pursuant to 36 M.R.S.A. § 653 (D) which provides:

D. The estates up to the value of \$3,500, having a taxable situs in the place of residence, of the unremarried widow or minor child of any veteran who would be entitled to such exemption if living, or who is in receipt of a pension or compensation from the Federal Government as the widow or minor child of a veteran.

The widow was a nurse in World War I and a "veteran" within the statutory definition of 653 (E).

Subsection (C) of § 653 provides an exemption as follows:

C. The estates up to the value of \$3,500, having a taxable situs in the place of residence, of veterans who served in the Armed Forces of the United States during any federally recognized war period . . . when they shall have reached the age of 62 years or when they are receiving any form of pension or compensation from the United States Government for total disability, service connected or non-service connected, as a veteran . . .

*QUESTION:*

Whether one eligible as the widow of a veteran and eligible as a veteran is entitled to a double exemption from taxation.

*ANSWER:*

Yes, there is no implied limitation of a double exemption in the statute.

*OPINION:*

The statutory section under consideration sets forth various categories of veteran's exemptions, including one for the benefit of unremarried widows of veterans and one for veterans themselves.

There are certain prerequisites to be met before one is eligible for exemption, such as a residence requirement and the filing of an application. The statute is silent regarding the number of exemptions to which one might be entitled. "When a tax statute is susceptible of more than one interpretation the court will incline to the interpretation most favorable to the citizen." *Acheson v. Johnson*, 147 Me. 275, 281. See also, *Hanbro, Inc. v. Johnson*, 158 Me. 180.

*SUBJECT:*

Double exemption for widowed veteran under § 653

Here we have a statute capable of interpretation in one of two ways; i.e., either in favor of or against two exemptions by one individual. Other states have similar statutory exemptions. Connecticut, for example, specifically provides that only one exemption will be allowed in the case of double eligibility, as does Michigan. See CONN. GEN. STAT. ANN. §12-81 and MICH. STAT. ANN. §7.7 Massachusetts has a provision in the event that double eligibility exists. See MASS. ANN. LAWS, ch. 59 §5 (22).

Since other states make specific statutory reference to the possibility of the existence of double eligibility, and Maine cases have spoken of ambiguities favoring the taxpayer (even though exemptions are generally strictly construed), the conclusion reached is that the taxpayer concerned here would be entitled to an exemption under subsection D as well as subsection C, for a total \$7,000 of valuation.

JAMES M. COHEN  
Assistant Attorney General

January 5, 1967

Joseph T. Edgar, Sec. of State

Chapter 421, sections 1 and 2 of the Public Laws of 1965, amends section 81 of Title 5 of the Revised Statutes by inserting after the first sentence of the second paragraph the following new sentence:

*"The Secretary of State may appoint the Deputy Secretary of State subject to the Personnel Law."*

Section 2 of the same Chapter immediately following states as follows:

*"It is the intent of the Legislature that section 1 shall in no way affect the tenure of the office of the Deputy Secretary of State who shall receive a salary not less than the salary paid to him as of the effective date of this Act."*

In view of the express language of section 2 above quoted that the Legislature in no way intended to affect the tenure of the office of Deputy Secretary of State, no other interpretation can be made of this language except that tenure for this office shall remain as it was prior to the enactment of the amendment. Inasmuch as the tenure of the office of the Deputy Secretary of State prior to the enactment of this amendment always coincided with the tenure of office of the Secretary of State himself, it is obvious that the tenure of the Deputy Secretary remains the same as the Secretary who appointed him.

It is my opinion that the tenure of the Deputy Secretary of State, appointed by your predecessor, expired when your predecessor's term expired, and that presently there is no one appointed or serving as Deputy Secretary of State. There will not be until you, yourself, appoint your own Deputy.

The Legislature apparently intended to give the protection of the Personnel Law to the Deputy Secretary of State in every respect except tenure, which it expressly did not change.

JAMES S. ERWIN  
Attorney General