

MAINE STATE LEGISLATURE

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OPINION OF THE ATTORNEY GENERAL

Dec. 1, 1972

TO: Ernest H. Johnson, State Tax Assessor - Bureau of Taxation

FROM: John M. Dudley, Assistant Attorney General, Bureau of Taxation

SUBJECT:

Property Tax Exemption for Unremarried Widow or Minor Child of Deceased Veteran.

SYLLABUS:

ACCORDING TO 36M.R.S.A. SECTION 653, SUB. 1(D), PRESCRIBING EXEMPTION FOR ESTATES OF DECEASED VETERANS, THERE IS ONLY ONE EXEMPTION, \$3,500. THE UNREMARIED WIDOW IS ENTITLED TO THE TOTAL AMOUNT OF \$3,500. IF THE WIDOW IS DECEASED, A MINOR CHILD OR CHILDREN ARE ENTITLED TO THE TOTAL AMOUNT OF \$3,500. IF BOTH UNREMARIED WIDOW AND A MINOR CHILD OR CHILDREN SURVIVE, THEY ARE JOINTLY ENTITLED TO THE TOTAL AMOUNT OF \$3,500, THE WIDOW BEING ENTITLED TO THE TOTAL EXEMPTION OF \$3,500, AND IF HER PROPERTY IS LESS THAN \$3,500, ANY EXCESS BEYOND THE VALUE OF HER PROPERTY IS AVAILABLE AS AN EXEMPTION TO A MINOR CHILD OR CHILDREN.

FACTS:

A qualified veteran dies intestate leaving real estate and survived by a widow and two minor children.

QUESTION:

1. Are the widow and two minor children each entitled to property tax exemption up to the value of \$3,500; or are they jointly entitled only to a single exemption of up to \$3,500?
2. If the latter, how is the exemption to be applied as to the various persons involved?

ANSWER:

1. They are jointly entitled only to a single exemption of up to \$3,500.
2. The widow is entitled to the whole \$3,500. If she does not own real estate to the amount of \$3,500, any excess beyond the value of her real estate would be available equally to the two minor children.

Thus, if the total value of real estate was \$6,000, the widow would acquire one-third and each minor child one-third, or \$2,000 each. The widow would have an exemption of \$2,000 and each minor child an exemption of \$750.

REASONS:

Chapter 81, section 6, sub. X. Revised Statutes of 1944. This Subsection was a long paragraph and covered exemptions by reason of age, infirmity or poverty to exemptions for the blind. It included veterans and unremarried widows of veterans. The exemptions were \$3,500. Minor child was not mentioned.

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Re: Title 36 M.R.S.A. §653 Sub. I(D)
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Chapter 29 of the Laws of 1947 amended the above named Sub Section X by adding the words, "or the minor children of any veteran who shall be receiving a pension from the United States Government."

Chapter 291 of the Laws of 1953 further amended said Sub-section X using the identical words that have remained to our present law, pertaining to widows and minor children.

Chapter 399 of the Laws of 1955 repealed the Laws of Taxation by the towns and a new law was passed. The section on exemptions was divided into subsections but the wording as to widows and minor children remained the same.

Chapter 399 of the Laws of 1955 was a general revision of the tax law. A special committee worked over a year in preparing the revision. The worksheets of the committee are included in the Legislative Report. No comments appear therein directly pertaining to the subject under consideration in this opinion.

Thus, from a study of the past laws, we find that prior to 1947 a \$3,500 exemption was available to an unremarried widow. None was available for minor children of a deceased veteran.

The statute uses the words "up to the value of \$3,500." The statute also uses the words "of any veteran who would be entitled to such exemption if living." It is thus clear that there is only one exemption provided for by the statute, to wit: "up to the value of \$3,500." This exemption is for the veteran, during his lifetime. At his death, his unremarried widow or minor child may claim it.

Situations have arisen where the qualified veteran died leaving no widow but leaving minor children or leaving a widow and minor children. Prior to 1947 there was no exemption for such minor children.

It is apparent that the legislature felt that after the death of a qualified veteran, his dependants, both widow or minor children should benefit from this exemption and thus in 1947 added "or minor child" to the statutes. When there is a widow and no children, the widow can claim the total exemption. When there is a widow and minor children, the widow is entitled to the total exemption of \$3,500 and if her property is less than \$3,500, any excess beyond the value of her property is available as an exemption to a minor child or children.

When there are minor children only, they are jointly entitled to the exemption.

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There is only a single exemption of \$3,500. This is in rem. No person or family group is entitled to property tax exemption above the amount of \$3,500. This was clearly the intent of the Legislature when it enacted Sub L(J) in 1969, to wit:

"No person shall be entitled to property tax exemption under more than one paragraph of this sub-section."

If the value of the real estate is \$6,000 and the veteran dies intestate:

Widow only - Has exemption of \$3,500

Widow and two minor children - Widow has exemption of \$2,000 and each minor child \$750

Two minor children only - Each minor child has exemption of \$1,750

This opinion over-rules the opinion of George C. West, Deputy Attorney General, dated October 5, 1964.


Assistant Attorney General

DATED: December 1, 1972

JMD/etd