

# MAINE STATE LEGISLATURE

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JAMES E. TIERNEY  
ATTORNEY GENERAL



87-2

STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
STATE HOUSE STATION 6  
AUGUSTA, MAINE 04333

January 20, 1987

Honorable Norman O. Racine  
43 Highland Street  
Biddeford, ME 04005

Dear Representative Racine:

I am responding to your letter of January 7, 1987, in which you request an Opinion of this Department concerning the following question: Would amendment of 36 M.R.S.A. § 653 to authorize local assessors to calculate a veteran's taxable estate by reducing the locally assessed valuation of that estate by the full amount of the available statutory exemption be constitutionally permissible?

For the reasons discussed below, it is the opinion of this Department that the proposed amendment would create a disparity in taxation of veterans estates of like value and would, therefore, be violative of Article 9, § 8 of the Constitution of Maine.

Under the provisions of 36 M.R.S.A. §§ 551 and 601, real estate and certain enumerated classes of personal property are taxable to the owner of the property by the locality in which the property is located. This tax is commonly known as the property tax. Property taxes are apportioned equally among property owners according to the fair market value of their properties. This apportionment of property tax according to fair market value, or "just value," is mandated by the Maine Constitution which provides in pertinent part: "All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally according to just value." Me. Const. art. 9, § 8.

Based upon various factors not relevant here, each municipality in Maine develops an assessment ratio for itself which represents the ratio of the locally assessed valuation of property to the actual fair market value of that property. Typically, that local assessment ratio varies from 70 percent to 100 percent. Assuming that all property within a particular municipality is valued consistently with the prevailing local assessment ratio, the tax burden on all taxpayers within that locality will be equally apportioned according to the fair market value of their property. Further, because the same methodology is applied uniformly by all municipalities in the State, equal apportionment of local tax burdens on property owners according to the actual value of property is accomplished on a statewide basis as required by the Maine Constitution. Id.; and see 36 M.R.S.A. § 208 (1978).

Under existing law, a veteran's property up to a fair market value of \$4,000 is exempt from property tax. 36 M.R.S.A. § 653(1)(C). This statute also provides that the local assessed value of the exemption shall be determined by multiplying the available exemption by the local assessment ratio. 36 M.R.S.A. § 658(1)(k). Thus, under the present law, a veteran owning property located in Town A with a \$10,000 fair market value and a 100 percent assessment ratio will be required to pay tax on \$6,000 or 60% of the assessed value of his property. A veteran owning property of the same fair market value living in Town B with, say, a 70 percent assessment ratio, will be allowed an exemption of 70 percent of the \$4,000 exemption, \$2,800, and will thus be taxed on an estate valued at \$4,200 (\$7,000 less \$2,800), or, again, 60% of the assessed value of his property. Thus, the tax burdens of the two veterans are equally apportioned by the fair market value of their properties despite the differences in local assessment ratios.

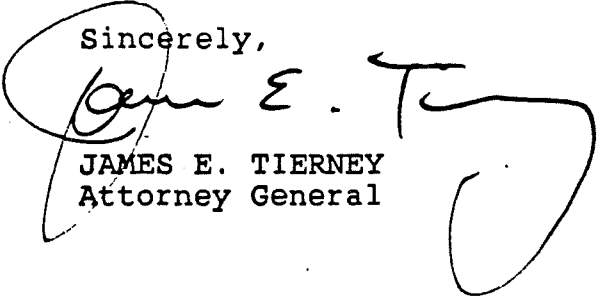
Were the present statute amended to allow the full \$4,000 exemption to be applied against a town's assessed value of property, then the veteran in Town B would be paying tax on \$3,000 (\$7,000 assessed value less \$4,000 exemption) which represents approximately 43 percent of the total assessed value of his property. It is, therefore, clear that a veteran in Town B would bear a smaller proportion of his Town's tax burden than a veteran owning property of the same value would bear in Town A, despite the equal value of their properties. This is the very result which the Constitution forbids. See Kittery Electric Light Co. v. Assessors of Town of Kittery, 219 A.2d 728 (Me. 1966). Accordingly, it is the Opinion of this Department that amendment 36 M.R.S.A. § 653 in the manner

suggested would be violative of Article 9, section 8 of the Constitution of Maine.

In summary, the Maine Constitution has mandated that the property taxes of Maine be apportioned equally. An amendment to 36 M.R.S.A. § 653 such as the one about which you inquire would treat some Maine veterans better than others and thus violate that constitutional requirement.

I hope this answers your questions. Please feel free to reinquire if further clarification is necessary.

Sincerely,



JAMES E. TIERNEY  
Attorney General

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