

August 17, 1937

Mr. James V. Robins  
County Attorney of Santa Cruz County  
Nogales, Arizona

Dear Mr. Robins:

We have received your letter of August 10, 1937, with reference to Chapter 46, Regular Session, Thirteenth Legislature. This act was amended by Chapter 18, Second Special Session of the Thirteenth Legislature, which act, however, does not carry the emergency clause and is not, therefore, as yet in effect. We will, however, direct our opinion as to the general question involved, and that is whether, in the event a taxpayer has penalties accrued in excess of the exemption granted by the statute, if such taxpayer may receive an exemption up to the amount of exemption granted, paying the balance of the penalty.

From a careful consideration of the matter, we are of the opinion that your position is correct, and that the taxpayer is entitled to the exemption up to the amount allowed by the statute in effect at the time of the payment of the taxes. It seems reasonably clear from an examination of the statute that such was the intention of the legislature, for they used the words, "that the sum thus exempted shall not exceed five hundred dollars (one thousand dollars) on the entire amount thereof. This language seems to indicate that a taxpayer should receive an exemption up to that amount. Further, it would seem that a construction which would deny an exemption up to the amount granted by the statute would give rise to a serious question as to the constitutionality of this statute, by reason of such discrimination.

It is, of course, a fundamental principle of statutory construction, that such construction should be given a statute as will render it constitutional, rather than unconstitutional.

We have secured and are inclosing herewith for your convenience a copy of the amendment.

Yours very truly,

JOE CONWAY  
Attorney General

MARK WILMER  
Assistant Attorney General

E. G. FRAZIER  
Special Assistant  
Attorney General

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