

February 2, 1950

Mr. Barry De Rose
County Attorney
Gila County
Globe, Arizona

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Dear Sir:

This will acknowledge receipt of your letter of January 19, 1950, requesting an opinion on the following questions:

"(1) If a World War I veteran was a resident of Arizona prior to and for some years subsequent to 1927 and then left the state for a period of ten years and could prove that he did not abandon Arizona as his legal residence, would he be entitled to tax exemption?"

(2) If a veteran served 36 days in the active service of the U.S. and was then taken out of the active service and put in the mines to work for the balance of the war and his discharge shows longevity credit for his work in the mine under this inactive status, would he be entitled to tax exemption?"

Pima County v. Weddle, 54 Ariz. 525, 97 Pac. (2d) 531, we believe answers your first question. Our Supreme Court in that case stated:

"Where a World War veteran resided in the state six years prior to January 1, 1927, and then left for a period of six years only to return, he had fulfilled the residence qualifications of the constitutional provision granting tax exemption to veterans, since he lived in the state prior to January 1, 1927, and continuous residence before, up to and after that date is not essential."

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It is our opinion the same principles as enunciated in the Weddle case will apply under the Constitution, Article 9, Section 2, as adopted November 5, 1946.

In your second question you want to know whether or not a veteran who has served 36 days in active military service of the United States and then was taken and placed in inactive service working in a mine is entitled to tax exemption. If the assessor is satisfied as to the identity of the veteran and that the veteran has an honorable discharge showing that he has served in the military or naval services of the United States for sixty days during time of war, and that he has resided in the State of Arizona prior to September 1, 1945, it is our opinion that the veteran is entitled to tax exemption.

Our Constitution and state laws do not require that a veteran be in active military or naval duties but merely that he has served at least sixty days in either military or naval service of the United States. Apparently in your case the United States Government considered the services of the veteran while working in the mines to be in line with military or naval service and that for that reason gave him a discharge showing military service. We can see no way to get around an honorable discharge given by the United States Government.

Trusting the above answers your questions satisfactorily, I am

Very truly yours,

FRED O. WILSON
Attorney General

MAURICE BARTH
Assistant Attorney General

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