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ARIZONA ATTORNEY GENERAL

February 20, 1950

W. Lockwood
K. D. Lockwood, Director
Income Tax Division
State Tax Commission
Phoenix, Arizona

Dear Mr. Lockwood:

RE: Income Tax Exemptions War Measures

We have your memorandum dated February 8, 1950 in which you inquire whether, under the terms of Section 4 of Chapter 10, Laws of 1944, Second Special Session, the provisions of Chapter 10 have been terminated. The first three sections of the Act provide for exemptions for members of the armed forces of the United States or the United States Merchant Marines for income tax purposes.

Said Section 4 provides that:

"This act shall terminate six months after a state of war no longer exists between the United States and any foreign nations."

A state of war between this country and any other country does not terminate, in the absence of a formal treaty of peace and a proclamation by the President of the United States, or a joint resolution of Congress proclaiming that a state of war no longer exists.

Samuels v. United Seaman Service, 68 Fed. Supp. 461

Boyles v. Saverinsky, 65 Fed. Supp. 808

U.S. ex rel Schluter v. Watkins, 67 Fed. 556

Michael Tuck Foundation v. Hazelcorn, 65 NYS 2d 387

Stimson v. New York Life Insurance Co., 69 Fed. Supp. 660

On December 31, 1946, the President of the United States made a proclamation, which, omitting the preamble, reads:

"NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim the cessation of hostilities of World War II, effective twelve o'clock noon, December 31, 1946."

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Page two
February 20, 1950

Cessation of hostilities between the United States and enemy countries does not constitute a termination of a state of war existing between the United States and such countries. The President, in September, 1947, did proclaim that a state of war no longer existed between the United States and Hungary, Italy and Bulgaria. However, no such proclamation by the President, nor joint resolution by the United States Congress has been issued or adopted so far as the state of war heretofore existing between this country and Germany and Japan is concerned.

It is therefore our opinion that a state of war still exists between the United States and certain foreign nations and that therefore the provisions of Chapter 10, supra, are still in effect.

Yours very truly,

FRED O. WILSON
Attorney General

LORNA E. LOCKWOOD
Assistant Attorney General

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