

April 5, 1950

Mr. David H. Palmer, Jr.  
County Attorney  
Yavapai County  
Prescott, Arizona

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Dear Mr. Palmer:

We regret that we have been unable to answer your letter of March 13 until now, due to the urgency of matters demanding immediate attention during the recent special session of the Legislature.

Your question is how should the County Assessor handle the collection of taxes on motor vehicles owned by veterans who claim exemption under the constitutional provision. (Art. 9, Sec. 2)

As you say, all property acquired by either spouse during coverture is presumed to be community property. To overcome such presumption, evidence must be clear, satisfactory and convincing. See:

Schwartz vs. Schwartz, 52 Ariz. 105, 79 Pac. 2nd 501,  
116 ALR 633

Anderson vs. Anderson, 65 Ariz. 184, 177 Pac. 2nd 227

Porter vs. Porter, 67 Ariz. 273, 195 Pac. 2nd 132

and numerous other cases cited in Arizona Digest.

The Arizona Supreme Court has also held that the lieu tax being substituted in place of an ad valorem tax on motor vehicles, the same exemptions apply as would have applied under ad valorem taxation.

Brush vs. State, 59 Ariz. 525, 130 Pac. 2nd 506

Lebeck vs. State, 62 Ariz. 171, 156 Pac. 2nd 720

It is our opinion, therefore, that the Assessor should, in collecting the tax, allow exactly the same exemption which would be allowed for any ad valorem tax with regard to veterans. It is largely a matter of whether the presumption that the car registered in the husband's name is community property, is nevertheless overcome by satisfactory and convincing evidence that it is in fact the separate property of the husband. If the Assessor is satisfied by affidavit that the property is the separate property of the husband, we would say he may then allow the full exemption.

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Otherwise, it is his duty to collect one-half of the tax only.  
We trust this answers your question.

Very truly yours,

FRED O. WILSON  
Attorney General

LORNA E. LOCKWOOD  
Assistant Attorney General

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