

640515.2

TAXATION: Property—Veterans' homesteads.

The unmarried widow of a soldier or sailor of World War I, World War II, or of the Korean War, is eligible to claim veterans homestead tax exemption regardless of the length of time her late husband served during the period of the aforementioned wars, as long as he was honorably discharged and received disability compensation.

The unmarried widow of a soldier or sailor who served during the Philippine Insurrection, the China Relief Expedition, the Spanish-American or Indian Wars, World War I, World War II or the Korean War, and was honorably discharged after serving a minimum of three months, is entitled to a veterans homestead tax exemption even though her late husband was not disabled.

The unmarried widow of a soldier or sailor of World War I, World War II or the Korean War is entitled to a veterans homestead tax exemption if her late husband was honorably discharged because of a service-connected disability even though he did not actually receive disability compensation.

No. 4299

May 15, 1964.

Honorable Billie S. Farnum
Auditor General
State Capitol
Lansing, Michigan

Section 7 of the General Property Tax Law¹ contains the veterans homestead tax exemptions. Portions of the exemption provision relevant to your inquiry read as follows:

"The following property shall be exempt from taxation:

"* * *

"Eleventh, (a) All real estate to the value of \$2,000.00 used and owned as a homestead by any soldier or sailor of the federal government who was discharged under honorable conditions after having served 3 months or more, or who was discharged under honorable conditions after having served less than 3 months because of a service-connected disability, during the Philippine Insurrection, the China Relief Expedition, the Spanish-American or Indian wars.

"(b) All real estate to the value of \$2,000.00 used and owned as a homestead by the widow, who has not remarried, of any soldier or sailor who under paragraphs (a) or (c) would be entitled to such exemption; also all real estate to the value of \$2,000.00 used and owned as a homestead by the widow, who has not remarried, of any soldier or sailor of the federal government who was discharged under honorable conditions after having served 3 months or more, or who was discharged under honorable conditions after having served less than 3 months because of a service-connected disability, or who died

¹ Act 206, P.A. 1893, as amended, being C.L. 1948 and C.L.S. 1961 § 211.1, et seq., M.S.A. 1960 Rev. Vol. and 1963 Cum. Supp. § 7.1 et seq. Section 7 was last amended by Act 148, P.A. 1963.

while in service, during World War I or during World War II dating from December 7, 1941, or during the national emergency dating from June 27, 1950, and terminating December 31, 1953, provided he died in line of duty and not as a result of his own misconduct.

"(c) All real estate to the value of \$2,000.00 used and owned as a homestead by any soldier or sailor of the federal government who served during World War I or during World War II dating from December 7, 1941, or during the national emergency dating from June 27, 1950, and terminating December 31, 1953, and who has a service or nonservice connected disability recognized by the United States veterans' administration, or the armed forces of the United States, on which compensation is paid."

By letter of February 12, 1964, you request my opinion upon several specific questions:

1. Is the unremarried widow of an honorably discharged soldier or sailor of World War I, World War II or the Korean War eligible for exemption regardless of the length of time her late husband served during the period of the mentioned wars as long as he, in fact, received disability compensation?

That part of paragraphs enumerated "(b)" and "(c)" of Subdivision Eleventh applicable to your question provides that the homestead exemption is available to the unremarried widow of any honorably discharged soldier or sailor who served during World War I or during World War II dating from December 7, 1941, or during the national emergency (Korean War) dating from June 27, 1950, and terminating December 31, 1953, and who received compensation from the United States veterans' administration, or the armed forces of the United States for a service or nonservice connected disability.

Length of service is unrelated to the veterans homestead exemption in Subdivision Eleventh (c). The act of omitting such requirement is construed to be intentional and not a legislative oversight.

People v. Vaines, 310 Mich. 500.

Therefore, question enumerated "1" is answered in the affirmative.

2. Is the unremarried widow of a soldier or sailor eligible for veterans homestead exemption if her late husband honorably served a minimum of three months during the Philippine Insurrection, the China Relief Expedition, the Spanish-American or Indian Wars, World War I, World War II or the Korean War, regardless of his receipt of disability compensation?

Under Subdivision Eleventh (a), any honorably discharged soldier or sailor having served three months, or more, during the Philippine Insurrection, the China Relief Expedition, the Spanish-American or Indian Wars is eligible to claim a homestead tax exemption. Under Subdivision Eleventh (b), their unremarried widows are equally eligible. Further

"* * * the widow, who has not remarried, of any soldier or sailor of the federal government who was discharged under honorable conditions after having served 3 months or more, * * * during World

War I or during World War II dating from December 7, 1941, or during the national emergency dating from June 27, 1950, and terminating December 31, 1953, * * *

is specifically made eligible to claim exemption by the aforesaid language of Eleventh (b). The statute clearly does not condition such widow's eligibility for veterans homestead exemption upon her late husband's being disabled when he served for three months or more.

The answer to question enumerated "2", consequently, is in the affirmative.

3. Is the unmarried widow of a soldier or sailor eligible for veterans homestead exemption if her late husband was honorably discharged because of a service-connected disability after having served less than three months during World War I, World War II or the Korean War, regardless of whether he actually received compensation for such disability?

By the very terms of Subdivision Eleventh (b), the unmarried widow of any soldier or sailor of World War I, World War II or the Korean War is eligible to claim the veterans homestead exemption if her late husband, having served less than three months, was discharged under honorable conditions because of a service-connected disability. The statute does not require that compensation for such service-connected disability actually be received.

The question enumerated "3" is, therefore, answered "Yes."

All of the answers to the foregoing questions assume that the unmarried widow meets the other qualifying tests to claim the veterans homestead exemption under Subdivision Eleventh, supra.

FRANK J. KELLEY,
Attorney General.

640515.3

SCHOOLS: Districts — Transfer of territory between.

INTERMEDIATE BOARD OF EDUCATION: Power to transfer territory between school districts separated by a river.

Two school districts separated by a river are contiguous to each other because adjoining owners on the river hold title to the bed of the river to the center of the stream. Intermediate Board of Education may transfer territory between two school districts separated by a river pursuant to authority vested by Sec. 461 of Act 269, P.A. 1955, as amended.

No. 4315

May 15, 1964.

Mr. William L. McManus
Prosecuting Attorney
St. Joseph County
Courthouse
Centreville, Michigan

You request my opinion on the following question:

Does a river separating two school districts destroy contiguity of school districts so as to preclude transfer of territory between the school districts under Sec. 461 of Act 269, P.A. 1955?