

Taxation, Exemption From by Old Soldiers.

A law exempting old soldiers from property assessment and taxation is unconstitutional.

Helena, Montana, Feb. 20, 1907.

Hon. H. J. Miller,
House of Representatives,
Helena, Montana.

Dear Sir:—

In accordance with your request of this date for an opinion respecting the constitutionality of the act which you have prepared and contemplate introducing in the Legislative Assembly, exempting old soldiers from taxation to the extent of one thousand dollars of assessed property valuation belonging to them individually, I give you the following opinion of this office:

Such law is unconstitutional as it violates the express and mandatory provisions of Section 1 of Article 12 of the Constitution of the State of Montana, which provides in part, "The Legislative Assembly shall levy a uniform rate of assessment and taxation and shall prescribe such regulations as shall secure a just valuation for taxation of all property except that especially provided for in this Article." Under the provisions of this section all property must be valued for taxation at a uniform rate, except that otherwise specially provided for in the article. The property specially provided for in the article and exempted from assessment and taxation is only such as is enumerated in Section 2 of the same article, which exempts only the property of the United States, the State, counties, cities, towns, school districts, municipal corporations, public libraries, property used exclusively for agricultural and horticultural societies, for educational purposes, places for actual religious worship, hospitals, and places of burial not used or held for private or corporate profit and institutions of purely public charity.

The word property is defined in Section 17 of Article 12 of the Constitution as including money, credits, bonds, stocks, franchises and all matters and things (real, personal and mixed) capable of private ownership.

You will readily see, therefore, that a law making exemptions such as you suggest, would be void.

See: Opinion of Attorney General to Hon. William Scallon, Chairman, Judiciary Committee, House of Representatives, Feb. 7, 1907.

Yours respectfully,

ALBERT J. GALEN,

Attorney General.