

**Opinion No. 7.****Motor Vehicles—Taxes—Soldier's and Sailor's Tax Moratorium—Vehicles**

Held: Person in active military or naval service must pay taxes on motor vehicle at time of registration.

January 4, 1943.

Mr. J. Miller Smith  
County Attorney  
Lewis and Clark County  
Helena, Montana

Dear Mr. Smith:

You have asked the opinion of this office whether a person in the active army or naval service can register an automobile, without payment of taxes thereon, in view of the provisions of Sections 2236 and 2237, Revised Codes of Montana, 1935.

It is to be noted these sections of the Codes were enacted as Chapter 14 of the Laws of the Fifteenth Extraordinary Session of Montana, 1918, and in response to the proclamation of Governor S. V. Stewart stating:

"That our soldiers and sailors are not now given proper immunity consistent with existing conditions and the public service they are rendering. They should be protected against loss by lawsuits and statutes of limitation during the time of service and for a reasonable time thereafter.

"To provide a moratorium for soldiers and sailors and to protect them from loss by legal proceedings and statutes of limitation."

The intent of the legislature in enacting the chapter, and other statutes enacted at said session, was to provide

for conditions created by World War I. Most of these statutes have been repealed since that time, but for some reason, either intentional or unintentional, this chapter remains unrepealed.

It is to be noted, however, Section 1, Chapter 72, Laws of 1937, requires the registration of every motor vehicle operated or driven upon the public highways of the state. It is specifically provided the applicant for registration must pay the registration fee, and, also, at such time pay the taxes assessed against such motor vehicle for the current year of registration before the application for registration or re-registration may be accepted by the county treasurer." Further, Section 12 of said Chapter provides all acts and parts of acts, statutes and codes in conflict with the provisions of the act, and the amendments therein made, shall be, and the same are expressly repealed.

This would work a repeal of Sections 2236 and 2237, insofar as a motor vehicle is concerned, where the owner thereof intended to operate and drive it upon a public highway, as the owner would be required to register the vehicle before such operation, and the county treasurer is not permitted to register the vehicle until the taxes are paid.

It is therefore my opinion a person in the military or naval service who owns a motor vehicle which he desires to operate and drive upon the public highways of the state must register such vehicle and pay the taxes thereon.

Sincerely yours,  
R. V. BOTTOMLY  
Attorney General