

VOLUME 31

Opinion No. 22

AUTOMOBILES; Taxation, non-resident servicemen exempt—LICENSES; Motor vehicles, non-resident servicemen—TAXATION; Personal property taxes, non-resident servicemen's automobiles. Section 53-114 (3), R.C.M. 1947; 50 U.S.C. App.)574.

HELD: The county treasurer must register an automobile or issue license plates to non-resident military personnel without requiring the payment of personal property taxes on the automobile. A flat licensing fee is all that can be charged on such automobiles.

September 23, 1966

Mr. Gordon T. White
County Attorney
Valley County
Glasgow, Montana

Dear Mr. White:

You have requested my opinion on the following question:

May non-resident U. S. military personnel procure Montana licenses for their automobiles without paying personal property taxes on such automobiles?

In 1965 this office rendered an official opinion on this issue, Volume 31, Opinion No. 7. That opinion held that as a prerequisite to motor vehicle registration non-resident military personnel would necessarily have to pay personal property taxes on their motor vehicles. The opinion was consistent with the general taxation practices followed by many states in registering and licensing motor vehicles owned by non-resident servicemen. These practices involved a charge of both a flat registration fee and a larger, variable "license fee" measured by vehicle value, or a registration fee based on the horsepower and weight factors of the vehicle.

Earlier this year, the United States Supreme Court in **California v. Buzard** (18 Jan. 1966, 34 L.W. 4087) and its companion case **Snapp v. Neal** (18 Jan. 1966) decided that non-resident military personnel need not pay the personal property taxes on their motor vehicles exacted by the host state as part of its registration requirements. The court interpreted section 514 of the Soldier's and Sailor's Civil Relief Act of 1940, as amended to provide "a non-resident serviceman present in a State in compliance with military orders with a broad immunity from that State's personal property and income taxation" **California v. Buzard**, supra, at 4087. Relying heavily on an earlier decision, **Dameron v. Broadhead**, 345, U.S. 322, 326, the Court, construing section 574 of 50 U.S.C. App., concluded that motor vehicles belonging to non-resident military personnel are to be exempt from local taxes whether or not the state of original residence had taxed the motor vehicle. **California v. Buzard**, supra, at 4092, 4093.

In light of the Supreme Court's holding it is my opinion that non-resident military personnel may procure Montana license plates for their automobiles without paying the personal property tax thereon. The Court's interpretation of 50 U.S.C. App. Section 574 only restricts local taxation of such automobiles, and does not prevent exacting a flat registration fee if a non-resident serviceman chooses to procure Montana license plates. Therefore, the registration fee provided by section 53-122 may be collected from non-resident military personnel.

Very truly yours,

FORREST H. ANDERSON
Attorney General

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