

1983 WL 181936 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 8, 1983

***1 SUBJECT: Taxation and Revenue—Taxability of a motor vehicle of a nonresident service person stationed in Texas who wishes to register the vehicle in South Carolina, wherein the fee is less than that imposed by Texas or his state of domicile, Tennessee.**

(1) The Soldiers' and Sailors' Relief Act, 50 U.S.C.A. 574, precludes the taxation of the automobile of a person in military service when the person is not a resident of South Carolina and when the automobile is not used in a business.

(2) The certificate of property tax exemption for the motor vehicle of nonresident persons in military service should not be issued for purpose of licensing and registering such person's motor vehicle in this state when there is no lawful requirement to register and license the vehicle in this state.

Honorable Patricia T. Antley
Richland County Auditor

QUESTIONS:

(1) A nonresident person in military service in Texas wishes to register an automobile in South Carolina because the fee is less than that charged by Texas. Is the motor vehicle subject to property taxation?

(2) If not taxable, should the county auditor issue an exempt certification for licensing purposes?

APPLICABLE LAW:

50 U.S.C.A. 574 and §§ 56-3-150, 56-3-240 and 56-3-350 of the 1976 Code of Laws.

DISCUSSION:

Question 1. The Soldiers' and Sailors' Relief Act, 50 U.S.C.A. 574, precludes the State from taxing the personal property of nonresident persons in military service. The specific language is that:

'Where the owner of personal property is absent from his residence or domicile solely by reason of compliance with military or naval orders, this section applies with respect to personal property, or the use thereof, within any jurisdiction other than such place of residence or domicile, regardless of where the owner may be serving in compliance with such orders.'

The section has been judicially construed to reserve the right of taxation to the state of domicile, [Sullivan v. United States](#), 395 U.S. 169, 89 S.Ct. 1648, 23 L.Ed.2d 182; [California v. Buzard](#), 382 U.S. 386, 86 S.Ct. 478, 15 L.Ed.2d 436.

CONCLUSION:

The Soldiers' and Sailors' Relief Act, 50 U.S.C.A. 574, precludes the taxation of the automobile of a person in military service when the person is not a resident of South Carolina and when the automobile is not used in a business.

Question 2. [Section 56-3-240\(1\) of the Code](#) provides for the application to register and license a vehicle in this state. It provides in part that:

‘Every such application shall contain: (1) The name, bona fide residence and mail address of the owner or business address of the owner if a firm, association or corporation and the county, municipality, if applicable, and school district in which the applicant resides;’

Section 56-3-350(1) further provides that:

‘The Department shall refuse to register and license or to transfer registration upon any of the following grounds: (1) That the application contains any false or fraudulent statement or that the applicant has failed to furnish required information or reasonable additional information requested by the Department;’

*2 As understood, the person is a legal resident of the State of Tennessee and stationed in Texas. The person has no bona fide residence in South Carolina. Further, there is no requirement that the vehicle be registered and licensed in this state. Section 56-3-150 exempts the passenger vehicle of a nonresident for registration and licensing requirements when the operation within this state does not exceed ninety continuous days in any one registration and licensing year. Under the facts as furnished, there is no bona fide residence within the state nor is there a requirement for the vehicle to be registered and licensed in this state. Under such conditions, the exemption certificate should not be issued.

CONCLUSION:

The certificate of property tax exemption for the motor vehicle of nonresident persons in military service should not be issued for purpose of licensing and registering such person's motor vehicle in this state when there is no lawful requirement to register and license the vehicle in this state.

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