



STATE OF ARKANSAS
ATTORNEY GENERAL
LESLIE RUTLEDGE

Opinion No. 2015-086

November 20, 2015

The Honorable Keith M. Ingram
State Senator
P. O. Box 1028
West Memphis, AR 72303-1028

Dear Senator Ingram:

This is my opinion on your questions about a statute – as it provided during the years 2010 through 2012¹ – that exempts a disabled veteran from paying property taxes on his or her homestead and personal property. Your request sets out the following facts, stated to be hypothetical:

The veteran is an Arkansas resident and applies for disability status with the Department of Veteran Affairs in 2010. The veteran assesses his or her property in the county of residence in 2010. In 2011, the veteran pays property taxes (from 2010) and assesses property for 2011. In 2012, the veteran pays the 2011 property taxes and assesses for 2012. Also in 2012, the veteran receives a disability award from the Department of Veteran Affairs that makes the veteran eligible for the exemption under [the statute at issue].

Your questions are:

1. Is the disabled veteran entitled to:
 - a. Abatement of the 2011 property taxes payable in 2012 if the taxes have not been paid at the time of the disability award; or

¹ See Ark. Code Ann. § 26-3-306(a)(1)(A)(i) (Repl. 2012).

- b. Retroactive abatement of the 2011 property taxes if the taxes had been paid before the date of the disability award?
2. Is the disabled veteran entitled to retroactive abatement of the 2010 property taxes paid in 2011 after the veteran applied for disability status but prior to the time the veteran received the qualifying disability award?

RESPONSE

Before addressing the hypothetical questions you have posed, I must emphasize that I am statutorily barred from engaging in the private practice of law.² Accordingly, the conclusions stated herein should not be deemed to be offered for the benefit of any private third party.

As alluded to above, I must also emphasize that – because your hypothetical facts are stated to have all occurred in the years 2010 through 2012 – I do not consider a 2015 law that amended the statute with respect to the date on which the exemption becomes effective.³ It is true that the 2015 amendment changed the relevant law, and might well require different answers to your questions if they concerned, say, the years 2016 through 2018. I address your hypothetical questions by applying the law in place during the relevant period from 2010 to 2012, and I do not consider the 2015 amendment.

With these caveats, it is my opinion that the answer to each of your hypothetical questions is “no.”

DISCUSSION

The law in the relevant time period provided that a disabled veteran “who has been awarded special monthly compensation by the Department of Veterans Affairs” for one of several specified conditions “shall be exempt from payment of all

² See Ark. Code Ann. § 25-16-701 (Repl. 2014).

³ See Ark. Code Ann. § 26-3-306(f)(1) (added by Act 1167 of 2015), which provides that “the person shall be exempt from the date the person’s eligibility is established regardless of the date the lien for the property taxes attached.”

state^[4] taxes on the homestead and personal property owned by the disabled veteran.”⁵

In my opinion, the question whether the pre-2015 statute exempted a veteran from payment of homestead and personal property taxes for a given year was determined by reference to the veteran’s status under the statute on the first Monday in January of that year.⁶ Because – under the hypothetical facts given – the veteran did not receive an award until 2012, the property was, in my opinion, subject to 2010 and 2011 taxes. Whether the disability award occurred before or after the veteran’s 2012 payment of 2011 taxes is not relevant, in my opinion, to the question of the veteran’s liability for 2011 taxes. Again, it is important to note that this analysis is limited to the time period you asked about in your hypothetical questions, and therefore does not include an analysis of the effect of the General Assembly’s 2015 amendment of the relevant law.

Sincerely,



LESLIE RUTLEDGE
Attorney General

⁴ The quoted law was part of Act 363 of 1953. In 1958, the voters approved Arkansas Constitution Amendment 47, which prohibits *state* levies of property taxes. Notwithstanding the absence of state property taxes after 1958, the General Assembly has continued to amend the statute from time to time, most recently this year. *See* Act 1167 of 2015. The post-1958 legislative action suggests the General Assembly intends the statute to apply to local property taxes.

⁵ Ark. Code Ann. § 26-3-306(a)(1)(A)(i).

⁶ *See* Ark. Code Ann. § 26-34-101(b) (Repl. 2012) (“All taxes assessed shall be a lien upon and bind the property assessed from the first Monday of January of the year in which the assessment shall be made and shall continue until the taxes, with any penalty which may accrue thereon, shall be paid.”). *Accord* Op. Att’y Gen. 2000-011.