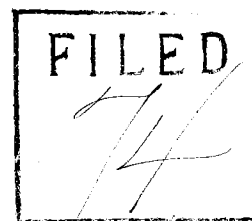


TAXATION: Discussion of cities' right to collect poll taxes
POLL TAXES: and right of exemption.

1-15
January 8, 1934.

Mayor H. L. Pruett,
Centralia, Missouri.



Dear Sir:

We are acknowledging receipt of your letter in which you inquire as follows:

"This city is having some difficulty with citizens who claim exemption in the matter of payment of Poll Tax. I construe sections 7014 and 7885 Revised Statutes Missouri 1929, to give cities of the fourth class the right to legislate on this subject and in the absence of specific legislation the one claiming exemption would be required to show a certificate from the County Court. We have citizens who claim exemption because of minor disabilities such as the loss of one thumb or one toe. They have not been exempted as provided for by our ordinances, but some hold certificates from the County Court for such disabilities. We do not consider them sufficient for exemption but before proceeding I should like to have your opinion.

Sections 13869 R. S. Mo. 1929 provide for exemption of members of National Guards. I construe this not to affect members who have been discharged from service.

Do you know of any exemption to be allowed discharged soldiers or sailors from the United States Army or Navy? I find nothing on this and in the absence of an exemption certificate as provided for by statutes and ordinance, see no reason why they should not pay Poll Tax."

Section 7014, R. S. Mo. 1929, authorizing cities of the fourth class to collect Poll Taxes is as follows:

"All able-bodied male persons between the ages of twenty-one and fifty years, who have resided within the corporate limits of such city thirty days next preceding the levy of any poll tax

for any given year, shall be liable to work on the streets and alleys of such city not to exceed three days, or to pay such sum in lieu thereof as the board of aldermen may provide by ordinance, not to exceed four dollars, and upon failure to pay such poll tax, either in cash or by labor, when notified so to do, according to the ordinances of such city, it shall be the duty of the city collector to bring suit before some justice of the peace within the township in which such city is located or an adjoining township, and proceedings shall be had thereon the same as in other ordinary civil cases; but no property shall be exempt from seizure and sale upon any execution issued upon any judgment rendered for such poll tax. The board of aldermen are hereby empowered to levy a poll tax not exceeding four dollars upon each able-bodied male person between the ages of twenty-one and fifty years, who shall have resided within the city thirty days next preceding the levy of such poll tax. Suits under this section may be brought independently of any other tax suits against any defendant pending on back taxes, owing by any defendant at the time suits under this section are brought; and all persons residing within the corporate limits of such towns shall be exempt from working on roads without the corporate limits of said towns and from paying tax or fine relating to the same on property within such corporate limits."

Section 7885, R. S. Mo. 1929, provides for the granting of exemptions from poll taxes by the County Court, and is as follows:

"All men between the ages of twenty-one and sixty years shall be considered able-bodied unless exempted by the county court, and such exemption shall be for life or for a specified time as in the judgment of the court may be right and proper. All applicants for such exemptions shall be examined by the county physician, when required by the court, and by the members of the court, if they see fit, and after such examination the court may authorize the clerk of said court to issue to such applicant a certificate of exemption in accordance with the provisions of this section. In no event shall there be any cost charged against the applicant for such examination, if the application be granted. Where the exemptions are granted, the county

clerk shall keep a record of same and when they expire. No man shall be permitted to set up the fact that he is not able-bodied in defense of any action brought against him for nonpayment of his poll tax unless he has in force at the time the suit is brought a certificate of exemption granted by the county court. Parties who are granted exemption papers shall hereafter pay to the road overseer a poll tax of fifty cents."

Section 7880, R. S. Mo. 1929, among other things, provides:

"The county courts of all counties, except those under township organization, shall at the regular February term in each year levy, for road purposes, upon every able-bodied male inhabitant in the county over twenty-one and under sixty years of age, except persons residing within incorporated cities, a poll tax not exceeding four dollars, * * *."

Under Section 7880 the county court is prohibited from levying poll taxes in incorporated cities. Section 7885 gives the right to the county to grant exemptions, and we believe that that section only applies to exemptions from poll taxes levied by the county court. Since the county has no right to exact a poll tax from inhabitants of incorporated cities, we conclude that the county would have no right to grant an exemption from poll taxes levied by incorporated cities upon their inhabitants. The question of exemption from city poll tax is governed by the ordinances of the incorporated city levying the tax. We are therefore of the opinion that the certificate of exemption granted by the county court would exempt the individual from paying poll taxes levied by the county court, but that such a certificate of exemption from the county court would not be a defense in the collection of the poll tax by an incorporated city.

We do not have before us the provisions of your ordinance covering the exemptions, but the tax may be levied under Section 7014 on all able-bodied male persons between the ages of twenty-one and fifty years. Whether a person is able-bodied so as to come under the tax is a question of fact. However, we are of the opinion that such minor disabilities as the loss of one thumb or one toe would not relieve the individual from the payment of the poll tax.

II

Section 13869, R. S. Mo. 1929, is as follows:

"Members of the organized military forces of the state shall be exempt from service upon juries, and shall not be required to pay a poll tax."

January 8, 1934.

As we construe the above section, members of organized military forces, while they are members of such forces, are exempt from paying poll tax, but when they have ceased to be a member of the military forces, then they are not entitled to this exemption. After a person has been discharged from the National Guards he is not a member of the military forces so as to entitle him to an exemption.

III

We do not know of any provision that exempts discharged soldiers or sailors from paying poll tax. We find no Federal provision giving them exemption and no provision in the state statutes that would exempt soldiers or sailors, after having been discharged from the service, from paying a poll tax.

Very truly yours,



Assistant Attorney General.

APPROVED:

Attorney General.

FWH:S