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DATE: November 1, 1988

SUBJECT: Interpretation of "Veteran" Qualifying for Homestead Exemption under Neb.Rev.Stat. §77-3509(1) (Reissue 1986).

REQUESTED BY: Senator George Coordsen
Nebraska State Legislature

WRITTEN BY: Robert M. Spire, Attorney General
L. Jay Bartel, Assistant Attorney General

You have requested our opinion regarding the interpretation of the word "veteran" in Neb.Rev.Stat. §77-3509(1) (Reissue 1986) with regard to the application of the Homestead Exemption provided pursuant to this provision. In particular, you ask whether the word "veteran" within the portion of the statute establishing the eligibility for exemption of "the unremarried widow or widower of any such veteran or of any veteran who has died because of a service-connected disability,..." pertains only to veterans as defined in Neb.Rev.Stat. §80-401.01 (Reissue 1987).

Neb.Rev.Stat. §77-3509(1) (Reissue 1986) provides, in pertinent part:

> All homesteads in this state shall be assessed for taxation the same as other property, except that there shall be exempt from taxation a percentage of the first thirty-five thousand dollars of the actual value of any homestead of any veteran, as defined in §80-401.01, drawing compensation from the Veterans' Administration of the United States because of one hundred per cent disability and not eligible for total exemption under §77-3526 to 77-3528, or the unremarried widow or widower of any such veteran or of any veteran who died because of a service-connected disability, or the unremarried widow or widower of a serviceman or servicewoman who died while on active duty during the dates described in §80-401.01.

Neb.Rev.Stat. §80-401.01 (Reissue 1987) in turn defines "veteran" to include only individuals who have served on active duty during specified periods of time during which the United States was at war.

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Generally, in construing a statute, legislative intent is to be determined by considering the act as a whole, in light of its object and purposes. Sorenson v. Meyer, 220 Neb. 457, 370 N.W.2d 173 (1985). Furthermore, where the same word is used repeatedly in a statute, the word is to be given the same meaning throughout, unless the context indicates a contrary intent. Knoell v. Huff, 224 Neb. 90, 395 N.W.2d 749 (1986).

Construing the provisions of §77-3509(1) as a whole, it appears the exemption contained in this section was intended to apply to veterans, as defined in §80-401.01, the unremarried widow or widower of such veterans under specified conditions, and to the unremarried widow or widower of a serviceman or service woman who died while on active duty during the time periods specified in §80-401.01. Initially, the statute establishes an exemption for veterans who served on active duty during the dates specified in §80-401.01 who draw compensation from the Veterans' Administration because of a one hundred percent disability and who do not otherwise qualify for total exemption. Secondly, the statute provides exemption for the unremarried widow or widower of veterans as referred to in the prior portion of the statute covering veterans with a compensable one hundred percent disability, and also provides exemption for the unremarried widow or widower of a veteran who died because of a service-connected disability. Finally, the statute exempts the unremarried widow or widower of a serviceman or servicewoman who died while on active duty during the time periods contained in §80-401.01 in the definition of veteran.

Your question relates to whether the term "veteran" in the second portion of the statute discussed above with regard to the eligibility of unremarried widows or widowers of veterans who "died because of a service-connected disability" should be limited to veterans as defined in §80-401.01. While the statute is not a model of clarity, we believe that, construed as a whole, the term "veteran" should be interpreted as relating to the definition of veteran contained in §80-401.01 in applying the exemption in this situation. As indicated previously, this portion of the statute may be interpreted to cover situations involving the unremarried widow or widower of a veteran who had drawn compensation for a total disability (as referred to in the first portion of the statute), or the unremarried widow or widower of a veteran who died as a result of a service-connected disability. Presumably, this additional provision is

intended to provide exemption to the unremarried widow or widower in the situation where a veteran who served on active duty during one of the times specified in §80-401.01 died as a result of a service-connected disability which did not amount to a total disability, as referred to in the previous portion of the statute.

In addition, it should be noted that, pursuant to Neb.Rev.Stat. §77-3521 (Reissue 1986), the Tax Commissioner has promulgated regulations regarding the availability of the Homestead Exemption provisions contained in Neb.Rev.Stat. §77-3501 to 77-3529 (Reissue 1986 and Cum. Supp. 1988). In construing the exemption granted for disabled veterans pursuant to §77-3509(1), the Commissioner has adopted Reg-45-002.07 of the Nebraska Homestead Regulations. Reg-45-002.07 provides, in pertinent part, as follows:

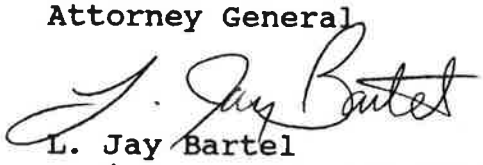
> Qualified disabled veteran shall mean an owner/occupant or occupant for Reg 45-002.07C, of the homestead <u>who served on active duty during the dates specified in section 80-401.01, and</u>:
>
> 002.07A Who is totally disabled due to a nonmilitary accident or illness,
>
> 002.07B Who is drawing compensation from the Veteran's Administration of the United States because of one hundred percent disability and who is not eligible for total exemption under sections 77-3526 through 77-3528, the unremarried widow or widower of such veteran, the unremarried widow or widower of a veteran who died while on active duty during a recognized war of the United States, and <u>the unremarried widow or widower of a veteran who died because of a service-connected disability</u>,... (Emphasis added).

Generally, "although construction of a statute by a department charged with enforcing it is not controlling, considerable weight will be given to such a construction, particularly when the Legislature has failed to take any action to change such an interpretation." <u>McCaul v. American Savings Company</u>, 213 Neb. 841, 331 N.W.2d 795 (1983). "The interpretation of a statute given by an administrative agency to which the statute is directed is entitled to great weight." <u>ATS Mobile Telephone, Inc. v. Curtin Call Communications, Inc.</u>, 194 Neb. 404, 232 N.W.2d 248 (1975).

Thus, under the administrative interpretation applied to the meaning of "veteran" for purposes od determining eligibility for the Homestead Exemption provided for in §77-3509(1), it is evident that the Nebraska Department of Revenue has construed this statute to apply to veterans as defined in §80-401.01. This interpretation is consistent with our prior conclusion that, construing the statute as a whole and giving due consideration to maintaining consistency in the meaning of the word "veteran" throughout the statute, the term should be construed to refer to veterans who served on active duty during the dates specified in §80-401.01. It is therefore our opinion that the term "veteran" should be interpreted as referring to the definition in §80-401.01 with regard to the reference to veterans who have died as a result of a service-connected disability contained within §77-3509(1).

Very truly yours,

ROBERT M. SPIRE
Attorney General



L. Jay Bartel
Assistant Attorney General

cc: Patrick J. O'Donnell
Clerk of the Legislature

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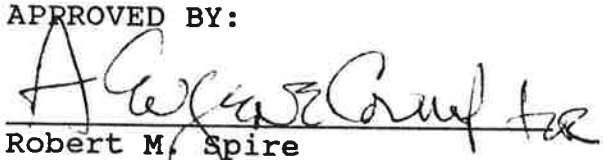

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