termination by the court so provides. See Burns Section 9-3218, same being Acts of 1945, Chapter 356, Section 18.

OFFICIAL OPINION NO. 40

July 7, 1950.

Clinton Green, Director,
Department of Veterans Affairs,
431 North Meridian Street,
Indianapolis, Indiana.

Dear Sir:

This is in reply to your letter in which you state the following:

"We are requesting an official opinion in regard to the exemption from taxes in the State of Indiana on certain dwellings, which were purchased by paralyzed veterans with the assistance of the Veterans Administration.

"Under Public Law 702 of the 80th Congress, enacted on June 19, 1948, the Veterans Administration was authorized to assist certain paralyzed veterans in acquiring dwellings that are suitable to their particular requirements. Grants were authorized in the aforementioned Act for a maximum purchase price of $10,000, and the Veterans Administration paid up to 50 percent of the cost of these homes.

"QUESTION No. 1: Are these dwellings, so purchased, exempt from total taxation in the State of Indiana?

"QUESTION No. 2:—Under the above cited Federal Act, the National Government pays 50 percent of the total cost of a suitable dwelling. Should that 50 percent be deducted from the assessed valuation of the home, and taxes paid by the veteran on the balance?"

Public Law 702 contains no specific exemption so if there be immunity or exemption from local taxation same must be
claimed, if claimed at all, from the provisions of Section 45a from the Federal Statutes, World War Veterans Act 38 U. S. C. A. 454a, which provides as follows:

"Payments of benefits due or to become due shall not be assignable, and such payments made to, or on account of, a beneficiary under any of the laws relating to veterans shall be exempt from taxation, shall be exempt from the claims of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. Such provisions shall not attach to claims of the United States arising under such laws nor shall the exemption herein contained as to taxation extend to any property purchased in part or wholly out of such payments. From and after October 17, 1940, this section shall be construed to prohibit the collection by set-off or otherwise out of any benefits payable pursuant to any law administered by the Veterans' Administration and relating to veterans, their estates, or their dependents, of any claim of the United States or any agency thereof against (a) any person other than the indebted beneficiary or his estate; or (b) any beneficiary or his estate except amounts due the United States by such beneficiary or his estate by reason of overpayments or illegal payments made under such laws relating to veterans, to such beneficiary or his estate or to his dependents as such: Provided, however, That if the benefits be insurance payable by reason of yearly renewable term or of United States Government life (converted) insurance issued by the United States, the exemption herein provided shall be inapplicable to indebtedness existing against the particular insurance contract upon the maturity of which the claim is based, whether such indebtedness be in the form of liens to secure unpaid premiums, or loans, or interest on such premiums or loans, or indebtedness arising from overpayments of dividends, refunds, loans, or other insurance benefits: Provided, further, That nothing in this amendatory Act shall be construed to modify or repeal section 687b of this title." (Our emphasis).
In the case of Lawrence v. Shaw (1937), 300 U. S. 245, 81 L. Ed. 623, 57 Sup. Ct. 443, 108 A. L. R. 1102 at 1104, it was said:

“In Trotter v. Tennessee, 290 U. S. 354, 78 L. Ed. 358, 54 S. Ct. 138, supra, we considered the provision of Sec. 22 of the World War Veterans’ Act, 1924, in relation to investments by the guardian of an incompetent veteran of the moneys received from the Government for compensation and insurance. We held that land purchased by the guardian with such moneys was not exempt. He said: ‘The statute speaks of “compensation, insurance, and maintenance and support allowance payable” to the veteran, and declares that these shall be exempt. We see no token of a purpose to extend a like immunity to permanent investments or the fruits of business enterprises. Veterans who choose to trade in land or in merchandise, in bonds or in shares of stock, must pay their tribute to the State.’

“* * * The World War Veterans’ Act, 1924, provided that the compensation and insurance allowances should be ‘exempt from all taxation.’ The Act of 1935 (454a, 38 U. S. C. A., supra) is more specific, providing that the payments shall be exempt from taxation and shall not be liable to process ‘either before or after receipt by the beneficiary.’ There was added the qualification that the exemption should not extend ‘to any property purchased in part or wholly out of such payments.’

* * *

“* * *

“The provision of the Act of 1935 that the exemption should not apply to property purchased out of the moneys received from the Government shows the intent to deny exemption to investments, as was ruled in the Trotter case. * * * In order to carry out the intent of the statute, the avails of the government warrants or checks must be deemed exempt until they are expended or invested.”

In this case it was held that the immunity from taxation does attach to bank credits of the veteran or his guardian.
which do not represent or flow from his investments but result from the deposit of the warrants or checks received from the Government when such deposits are made in the ordinary manner so that the proceeds of the collection are subject to draft upon demand for the veteran's use.

In the case of Trotter v. Tennessee, it was said:

"Exemptions from taxation are not to be enlarged by implication if doubts are nicely balanced. On the other hand, they are not to be read so grudgingly as to thwart the purpose of the lawmakers."

The title of Public Law 702 reads as follows:

"An act to authorize assistance to certain veterans in acquiring specially adapted housing which they require by reason of the nature of their service-connected disability."

Under this Act the Administrator is authorized to assist those named in the act in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability and necessary land therefor. The Act provides for several plans at the election of the veteran:

"(a) where the veteran elects to construct a housing unit on land to be acquired by him, * * *

"(b) where the veteran elects to construct a housing unit on land acquired by him prior to application for assistance. * * *

"(c) where the veteran elects to remodel a dwelling, which is not adapted to the requirements of his disability, acquired by him prior to application * * *

"(d) where the veteran has acquired a suitable housing unit * * *

The Act provides that the Administrator shall pay fifty percent of the total cost to the veteran not to exceed $10,000, in any case.

Now it is to be noted that under the Exemption Statute that the exemption should not extend "to any property purchased
in part or wholly out of such payment”. Now if the payments provided under Public Law No. 702 can be considered as a benefit payment to the veteran then same would not be immune from taxation after payments had been used to purchase property. However, payments under Public Law No. 702 are not such as come within the provisions of the Act of 1925 of the Exemption Statute of 1935, *supra*.

Public Law No. 702 does not contemplate payments to be made to all named in the act—those named in the act have their option of electing to choose one of the four plans therein, but must make application for said assistance and elect what plan he desires and the duty or authority of the Administrator is not give directly to the veteran but to pay fifty percent of the cost of the plan that the qualified veteran elects. It is therefore my opinion that the dwelling you speak of are not exempt from taxation in the State of Indiana.

However, it must not be overlooked that by statute our State Legislature has provided for specific exemption for those having military service. Burns 64-223, 1949 Pocket Edition, Acts 1941, Chapter 95, Section 1, page 236; 1947, Chapter 352, Section 1, page 415 in the amount of $2,000.00 and Burns 64-205, 1943 Replacement, Acts of 1927, Chapter 175, Section 1, page 519 in the sum of $1,000.00.

I respectfully refer you also to 1941 O. A. G. page 73, where it was expressed that these exemption acts are separate and distinct and the receipt of one does not preclude the receipt of the other if the applicant satisfies the requirements of such other. Of course, the ordinary mortgage exemption is available to anyone who meets the requirements of the mortgage exemption act.