

6. "Discretionary power of
Assessors to Apply Exemption"

STATE OF CONNECTICUT
Attorney General's Office

Hartford
6 December 1966

John J. Bracken
Attorney General

Honorable John L. Sullivan
Tax Commissioner
State of Connecticut
470 Capitol Avenue
Hartford, Connecticut

Dear Commissioner Sullivan:

In the letter of July 22, 1958 directed to you by officials of the Town of Fairfield, the question presented for our opinion may be stated as follows: For the purposes of application of the tax exemptions provided for veterans and the blind under subsections (17) to (23), inclusive, of section 1761, Gen. Stats. Rev. 1949, does a qualified taxpayer have a right of choice to demand that a board of assessors apply the amount of exemption to either his real property or his personal property?

The answer to the question is not materially affected by amendments to the subsections of section 1761 which appear in section 1054d, 1955 Supp. Gen. Stats.

Subsections (17) to (23), inclusive, of section 1761 provide exemption to specified amounts of the "property" of qualified veterans or specified relatives, and blind persons. There is no distinction made between real or personal property, and no right of election by a taxpayer to have exemption applied to a particular kind of property is provided. If such an election was contemplated it probably would have been stated by the legislature in appropriate terms. Statutes providing exemption from taxes are strictly construed and embrace only what is strictly within their terms. (*Klein v. Bridgeport*, 125 Conn. 129, 131; *Hoenig v. Connelly*, 141 Conn. 266, 272).

To determine who has the discretionary power to apply the exemptions in question to either real or personal property, or both, it is valid and helpful to examine the provisions of other statutes dealing substantially with the same subject matter. The essential force of the provisions of sections 1764, 1765, 1769 and 1770, Gen. Stats. Rev. 1949, is that the assessors shall determine, after consideration of certain items of proof, who are qualified for exemptions as veterans or blind persons. The assessors exercise primary discretion in determining property values, pursuant to section 1747, Gen. Stats. Rev. 1949 and P. A. No. 673, Jan. Sess. 1957. Also, the assessors are responsible for

Honorable John L. Sullivan

- 2 -

6 December 1966

preparing, equalizing and filing the lists or abstracts of taxable property within their respective communities under the pertinent provisions of sections 1734 and 1814, Gen. Stats. Rev. 1949.

Having thus empowered assessors to exercise discretion and having charged them with certain duties as public officers, it appears reasonable to assume the legislature intended the assessors should exercise their discretion in applying the exemptions afforded under subsections (17) to (23), inclusive. This would be in line with an intention to permit such public officers to adopt fiscal policies and practices designed to serve the needs of their particular communities. It is a general rule of law that municipal officers have implied powers necessary to carry out those expressly given to perform their statutory duties. (Rowland v. Hayes, 124 Conn. 129, 138.) It is important, also, to consider that since the enactment of the tax exemption statutes in question the assessors throughout the state have exercised discretion in the application of the exemptions. The practice has covered a substantial period of years and expresses the assessors' practical interpretation of the statutes. Such practical interpretation is entitled to the highest respect. (Savings Bank of Rockville v. Wilcox, 117 Conn. 188, 195.)

Furthermore, the apparent sole legislative purpose, as expressed in subsections (17) to (23), inclusive, of section 1761, is to grant exemption from taxation to the amounts specified therein. This purpose is fulfilled where a qualified taxpayer receives aid in the same amount as all others similarly circumstanced. The heart of each subsection appears to be the "amount" specified as aid; there is no provision for an election by a recipient to demand that the amount be applied to a particular kind of property. So far as the amount of exemption is concerned, no direct monetary gain can be realized by a taxpayer through application of an exemption to either real or personal property, because the total assessed valuation of real or personal property is reduced by the amount of exemption which remains constant unless changed by legislative enactment.

Finally, it is improbable that the legislature intended to place the beneficiaries of the instant tax exemptions in a position where they could interfere with fiscal policies or practices designed by public officers to promote the interests of the general public. In practice, the assessors will undoubtedly accommodate taxpayers to an extent warranted by conditions in their respective communities, but, in our opinion, the assessors cannot be compelled to apply the exemptions provided in subsections (17) to (23), inclusive, of section 1761 to either real or personal property.

*Sections 1054d & 1761 now Sections
12-81(17) thru (23)
Section 1734 now 12-55, 1747 now
12-63, 1764 now 12-89 & 12-90, 1765
now 12-92, 1769 now 12-93, 1770 now
12-94, 1814 now 12-131
Public Act #673 now Sec- By /s/
tions 12-26, 12-42, 12-53,
12-64, 12-71, 12-80, 12-111,
12-115, 12-116

Very truly yours,

John J. Bracken
Attorney General

Walter T. Faulkner
Assistant Attorney General