

CITY ASSESSORS:

All personal property owned by a resident though held outside the city is assessable for city taxes.

*Sec 9745-6994 RS Mo 1929*

11-17  
November 10th  
1933.



Mr. Gene H. Duebbert,  
City Assessor,  
Wellington, Missouri.

Dear Mr. Duebbert:-

We are in receipt of your letter of September 2, 1933, in which was contained a request for an opinion as follows:

"As City Assessor for Wellington please inform me if personal property held out of this city is assessable for city taxes when a person is a resident and makes his home in this city.

"Would the same ruling hold for all personal classification, such as machinery, notes and live stock.

"Wellington has a population of 676.

"Thanking you for this information, I am

Yours truly,  
(Signed) Gene H. Duebbert  
City Assessor,  
Wellington, Mo."

Section 9745, Revised Statutes of Missouri, 1929, provides as follows:

"Sec. 9745. PERSONAL PROPERTY TO BE ASSESSED IN COUNTY OF OWNER'S RESIDENCE - EXCEPTIONS. All personal property of whatever nature and character, situate in a county other than the one in which the owner resides, shall be assessed in the county where the owner resides, except as otherwise provided by section 9763; and all notes, bonds and other evidences of debt made taxable by the laws of this state, held in any state or territory other than that in which the owner resides, shall be assessed in the county where the owner resides; and the owner, in listing, shall specifically state in what county, state or territory it is situate or held."

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Section 6994, Revised Statutes of Missouri, 1929, provides as follows:

"Sec. 6994. ASSESSMENT OF PROPERTY- DUTY OF ASSESSOR AND OTHER OFFICERS- LIEN IN FAVOR OF CITY. In assessing property, both real and personal, in cities of the fourth class, the city assessor shall jointly, with the county assessor, assess all property in such cities, and such assessment, as made by the city assessor and county assessor jointly and after the same has been passed upon by the board of equalization, shall be taken as a basis from which the board of aldermen shall make the levy for city purposes. The assessment of the city property, as made by the city and county assessor, shall conform to each other, and after such board of equalization has passed upon such assessment and equalized the same, the city assessor's books shall be corrected in red ink in accordance with the changes made by the board of equalization, and so certified by said board, and then returned to the board of aldermen: PROVIDED, that in cities which do not elect an assessor the mayor shall procure from the county clerk of the county in which such city is located, and it shall be the duty of such county clerk to deliver to the mayor on or before the first day of July of each year a certified abstract from his assessment books of all property within such city made taxable by law for state purposes, and the assessed value thereof as agreed upon by the board of equalization, which abstract shall be immediately transmitted to the council, and it shall be the duty of said council to establish by ordinance the rate of taxes for the year. A lien is hereby created in favor of such city against any lot or lots or tract of land for any such tract assessed by such city against the same, which said lien shall be superior to all other liens or encumbrances except the lien of the state for state, county or school taxes."

In so much as the city of Wellington is a city of the fourth class, our opinion in this matter must be based on a construction of the two statutory provisions above quoted. In construing these two sections we are fortunate to have a decision of the Supreme Court of Missouri, sitting in Banc, squarely in point. State ex rel. Divine vs. Collier, 256 S.W. 455, 301 Mo. 72 (1923). In this case the city of Greenfield (a city of the fourth class) had assessed and levied taxes on personalty consisting of horses,

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cattle, mules, sheep, hogs, implements and machinery owned by a resident, said personalty being located outside the city. The Circuit Court held the taxes valid and the Supreme Court affirmed that judgment. In its opinion the Supreme Court quoted Section 12755, Revised Statutes of Missouri, 1919 (now Section 9745, Revised Statutes of Missouri, 1929, above quoted) and Section 8445, Revised Statutes of Missouri, 1919, (now Section 6994, Revised Statutes of Missouri, 1929, above quoted), hence, we have a decision of the highest court of this state on our identical question. This decision has never been overturned or controverted by any later case and must, therefore, be accepted as the law of this state.

The court in its opinion, State vs. Collier, 256 S.W. 1.c. 456, stated as follows:

"We are of the opinion that the trial court reached a correct conclusion in its disposition of this case and that its ruling is sustained by the following authorities: 26 R. C. L. Sec. 241, pp. 273, 274; State ex rel vs. Pearson, 273 Mo. 1.c. 78, 199 S.W. 1.c. 943, 944; State ex rel vs. Shepherd, 218 Mo. 656, 657, 117 S.W. 1169, 131 Am. St. Rep. 568."

Further, in the case of State ex rel vs. Timbrook, 145 Mo. A. 368, a case involving the taxing by a city of the fourth class of personalty consisting almost entirely of secured promissory notes, said notes being held outside the city; the court in construing Section 9121, Revised Statutes of Missouri, 1899, (amended, Laws 1903, p. 255) (said section as amended now being Section 9745, Revised Statutes of Missouri, 1929) at page 371, stated as follows:

"\* \* \*the Legislature was actuated by the purpose of providing a uniform and practical method of taxing such movable property and of preventing vexatious, wasteful and unnecessary litigation. We think the evident intent was to fix the situs of the personal property for all purposes of taxation, including taxation by municipalities."

From a review of the statutes and authorities of this state, therefore, and with particular advertance to the above, this office is of the opinion that a tax assessed against personal property of all kinds is to be assessed against the owner thereof at the place of his residence, because in contemplation of law his movable property accompanies him wherever he goes. Some very old cases hold to the

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contrary but the above is the law as held by our courts today.

Very truly yours,

CMH jr-MB

CHARLES M. HOWELL, Jr.  
Assistant Attorney-General.

APPROVED:

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Attorney-General.