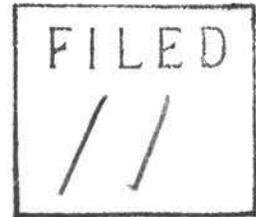


TAXATION : Situs of personal property of
: business and manufacturing cor-
PERSONAL PROPERTY ASSESSMENT: porations/determined by location
for assessment of personal property on June 1,
under Section 10958, R.S. Mo.1939.

March 9, 1945



Honorable D. W. Breid
Prosecuting Attorney
Franklin County
Union, Missouri

Dear Mr. Breid:

This will acknowledge receipt of your inquiry of February 26, 1945, relative to the following:

"The Crane Company, a plumbing supply house it seems is an Illinois Corporation owning and operating a large branch in St. Louis, Missouri, owns a number of motor vehicles for the use of their salesmen, one of which lives in Union, Franklin County, Missouri, and keeps the Company car here at all times. Our Assessor has assessed the car in Franklin County, and the Crane Company objects to this assessment, claiming it should be assessed in St. Louis."

We have a statute governing the taxation and assessment of personal property of business and manufacturing corporations as follows:

Section 10958, R.S. Mo. 1939, provides that the situs of personal property of business and manufacturing corporations shall be taxable in the county in which such property may be situated, on the first day of June of the year for which such taxes may be assessed. It also provides that said corporation owning personal property which is situated in any other county than the one in which said corporation is located, shall make return thereof to the assessor of such county where situated.

We find no Supreme Court ruling on the question

presented by you. However, the case of State ex Rel. White vs. Timbrook's Estate, 145 Mo. App. 368, 129 S.W. 1068, holds that while the presumption is, in the absence of statute, that the situs of personal property for taxation purposes is at the domicile of the owner, it will give way where it appears that the property has actual situs apart from his domicile. This decision construes the law with reference to assessing the property of individuals not corporations.

Also, in Volume 39, Words and Phrases, Permanent Edition, page 350, the case of Brock and Co. vs. Board of Supervisors of Los Angeles County, 8 Calif. (2d) 286 tal., 65 Pac. (2d) 791, 793, holds that the word "situated" as used in the statute providing that taxable property shall be assessed in the place in which it is situated, connotes a more or less permanent location or situs and the requirement of permanency must attach before tangible property which has been removed from the domicile of the owner will attain a situs elsewhere. See also, 110 A.L.R., page 700, and note page 707; see also, Security Mutual Life Insurance vs. Reis, 76 Neb. 141, 106 N.W. 1037.

In the case of Allegheny County vs. Gibson, 90 Pa. 397, 35 American Rep. 670, the Court held that all personal property being within the county is taxable, though it might be intransitu. Strictly speaking personal property cannot be said to have a situs. It is situated wherever it might happen to be for the time being. In the case of Corn vs. City of Cameron, 19 Mo. App. 573, the Court held that the general rule is that tangible personal property is to be taxed at the place of residence. This is the general rule, though tangible personal property may be taxed where it is, irrespective of ownership, if the statute shall so provide. In the case of State ex rel. K.C., St. J. and C.B. R.R. Co., 55 Mo. 378, l.c. 388, the Court said:

"* * * This notion of the situs of personal property following the personal residence of the corporation, is a legal fiction, but is not an unbending and uncontrollable principle of law. It may be modified by the legislature. * * * "

While there is considerable authority supporting the

~~the~~ theory that personal property of a corporation should be assessed at the place of its main office, yet we believe that under our Missouri statute it was intended that the personal property be assessable in the county where situated on the first day of June.

CONCLUSION.

Therefore, it is the opinion of this department that the automobile used by the salesman of the corporation should have been assessed at the situs of the automobile on June 1, 1943, and if it was then located in Franklin County, Missouri, it could have been assessed there, and the corporation should pay the tax upon the same.

Respectfully submitted,

R. WILSON BARROW
Assistant Attorney-General

APPROVED:

J. E. TAYLOR
Attorney-General

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