

TAXATION: Steamboats and other vessels owned by corporations to be assessed in the county in which such owner has its principal place of business.

July 31, 1953

FILED NO. 3

Honorable Roderic R. Ashby
Prosecuting Attorney
Mississippi County
Charleston, Missouri



Dear Sir:

Reference is made to your request for an official opinion of this department, reading as follows:

"Enclosed find a copy of an opinion which I have this day given the County Court of Mississippi County, Missouri.

"Simpson Oil Company, a corporation, whose home office is in Charleston, Missouri owns two boats and pays taxes on these boats in New Madrid County. Simpson Towing Company is an individual, Gladys Simpson, whose home is in Charleston, Missouri and owns one boat and pays taxes on this boat in Mississippi County, Missouri.

"Please give your opinion whether or not the two boats which are taxed in New Madrid County, Missouri should be taxed in Mississippi County?

"This opinion must be received within the next three weeks before the tax books are made up."

It is our thought that the taxation of steamboats and other vessels is controlled by the provisions of Chapter 154, RSMo 1949. Your attention is particularly directed to the provisions of Section 154.010, RSMo 1949, reading as follows:

"1. Steamboats and other boats and vessels used in navigating the waters of this state, and all shares, stocks and interest therein, are hereby declared a special class of property for the assessment and collection of taxes.

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"2. All taxes on such property shall be assessed and collected in the county or city in which the owner or owners of said property may reside at the time of assessment."

You have not so stated directly in your opinion request, but we have assumed that the vessels referred to are used on the Mississippi River. Such being the case, we think it beyond question that such vessels are used "in navigating the waters of this state" within the meaning of that phrase as used in Section (1) of the statute quoted, supra. We are persuaded to this view by reason of the provisions of Section 2 of the Act of Admission of the Territory of Missouri into the Union.

In the preparation of this opinion we have also given due regard to the provisions of Section 137.095, RSMo 1949, which reads as follows:

"All tangible 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 January of the year for which such taxes may be assessed, and every business or manufacturing corporation having or owing tangible personal property on the first day of January in each year, which shall, on said date, be situated in any other county than the one in which said corporation is located, shall make return thereof to the assessor of such county or township where situated, in the same manner as other tangible personal property is required by law to be returned."

It will be observed that the latter statute deals with the taxation of the tangible personal property of business and manufacturing corporations in a general manner whereas the statute previously quoted, namely Section 154.010, RSMo 1949, deals with a particular portion of such general class of tangible personal property, namely steamboats and other boats and vessels used in navigating the waters of this state. It is true that the general statute was enacted subsequent to the special statute which deals only with steamboats and other vessels. On the face of it, there appears to be a repugnancy between the provisions of the two statutes, but we feel that such apparent lack of harmony is to be resolved by application

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of the rule with respect to general and special statutes which has been declared by the Supreme Court of Missouri in the case of State ex rel. McKittrick, Attorney General, vs. Carolene Products Company, 144 S.W. (2d) 153, from which we quote, l.c. 156:

"Where there is one statute dealing with a subject in general and comprehensive terms and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative policy; but to the extent of any necessary repugnancy between them the special will prevail over the general statute. Where the special statute is later, it will be regarded as an exception to, or qualification of, the prior general one; and where the general act is later, the special will be construed as remaining an exception to its terms, unless it is repealed in express words or by necessary implication." Quoted with approval in the case of State ex rel. Buchanan County v. Fulks, 296 Mo. 614, 247 S.W. 129, loc. cit. 132." (Emphasis ours.)

We think the underscored portion of this rule to be applicable in the present instance, particularly in the light of the fact that the latter enacted statute, that is to say, Section 137.095, RSMo 1949, does not purport to repeal, in any manner, the provisions of the earlier enacted statute, namely, Section 154.010.

Applying the foregoing rule and in the light of the plain and unambiguous phraseology found in Section 154.010, RSMo 1949, it is our thought that such statute is controlling with respect to the taxation of steamboats and other boats and vessels used in navigating the waters of this state.

CONCLUSION.

In the premises, we are of the opinion that steamboats and other vessels used in navigating the waters of this state, which are owned by corporations, have a situs for purposes of taxation in the county in which such corporation has its principal place of business.

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The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Will F. Berry, Jr.

Yours very truly,

JOHN M. DALTON
Attorney General

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