

TAXATION: Personal property shall be assessed in the county of the owner's residence.

April 29, 1936. 4-29



Hon. W. T. Carter
County Assessor
Carter County
Van Buren, Missouri

Dear Sir:

Your request for an opinion from this department, directed to the Honorable Forrest Smith, reads as follows:

"I would like to have the Attorney General's opinion through your department relative to a specific case in jurisdiction and personal valuation.

"Dr. Robert I. Davis who resides at Birch Tree, Shannon County, Missouri owns and has operated the Rose Cliff Hotel at Van Buren, Carter County, Missouri. The furniture and fixtures used in operating the hotel, as I take it, are permanently located in Van Buren. Which county is entitled to this personal valuation?

At common law, the well-recognized doctrine was that the situs of the personal property of every description, wherever it is actually kept or located, is subject to taxation at the domicile of the owner. (26 R. C. L. page 273). It is now becoming universally an accepted rule that personal property is taxed at the domicile of the owner.

In the case of State v. Gehner, 8 S. W. (2d) 1.c. 1059, the Court said:

"The principle applicable at this point appears in 'mobilia personam sequuntur.' This principle, applied to the question under consideration, means that personal property has its situs for the purpose of taxation at the domicile of the owner.
*****"

Your attention is directed to Section 9745, R. S. Mo. 1929, relating to personal property being assessed in the county of the owner's residence. Said section reads as follows:

"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.*****"

Section 9763, R. S. Mo. 1929, as mentioned in the above section, is not apropos in the instant matter and therefore I do not deem it necessary to discuss the exception as mentioned.

In the case of State ex rel. vs. Pearson, 273 Mo. 1.c. 78, the Supreme Court, in commenting on Section 9745, supra, said:

"This provision is a sweeping one so far as it establishes the doctrine that personal property, tangible as well as intangible, follows the owner for purposes of taxation.***"

CONCLUSION.

In light of the above, it is the opinion of this department that the personal property of any person situated outside of the county wherein that person resides shall be assessed and taxed at the place of the domicile of said person.

Respectfully submitted,

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Assistant Attorney-General.

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney-General.