

TAXATION: Personal property in county under township organization assessed in township in which owner resides.

March 10, 1950

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Honorable W. V. Mayse
Prosecuting Attorney, Harrison County
Bethany, Missouri

Dear Sir:

We have received your request for an opinion of this department, which request is as follows:

"I would like an opinion, as soon as possible, on the following question:

"In a County, such as our own, a third class County with township organization, is tangible personal property to be assessed in the township where located or in the township where the owner resides? In using the word owner in this question, I refer to individuals and not the business Corporations. Please advise."

Section 14002, R.S.Mo. 1939, provides:

"All personal property shall be assessed annually; real property shall be assessed as provided by law."

Section 14003, R.S.Mo. 1939, provides:

"All real property shall be assessed in the township in which the same is situated, with the owner's name thereof, if known; if the owner's name is not known, then it shall be assessed as nonresident."

Section 14005, R.S.Mo. 1939, reenacted Laws of Mo., 1945, p. 1970, provides:

"The assessor, or some suitable person empowered by him, shall, within the time prescribed by law, and after being furnished with

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the necessary blanks proceed to take a list of the taxable property of his township and assess the value thereof in accordance with the provisions of the general laws of this state in relation to the assessment of real and tangible personal property by county assessors, in all things pertaining to the discharging of his official duties, except when the same may be inconsistent with the provisions of this article: Provided that in counties under township organization the assessor shall not be required to give bond and his compensation shall be such as is provided in this article for his services."

The above-quoted provisions are found in Article 12 of Chapter 101, R.S.Mo. 1939, relating to the assessment of property in counties under township organization. No express statutory provision is made regarding the place of assessment of personal property located in a township other than that of the residence of the owner in a county under township organization.

Section 8 of an act found in Laws of Mo., 1945, p. 1799, provides:

"All tangible 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 tangible personal property belonging to estates, which shall be assessed in the county in which the probate court has jurisdiction."

Section 10395, R.S.Mo. 1939, reenacted Laws of Mo. 1945, p. 1629, relating to school district taxes, contains the following provision:

"* * * and it shall be the duty of the county assessor in listing personal property to take the number of the school district in which the taxpayer resides at the time of making his list, to be by him marked on said list, and also on the personal assessment book, in columns provided for that purpose."

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In the case of State ex rel. Kelly v. Shepherd, 218 Mo. 656, l.c. 663, the court stated:

"It is conceded by counsel for both appellant and respondent that personal property is taxable at the domicile of the owner and in the school district in which he resides."

In 61 C.J. Taxation, p. 521, sec. 635, the following rule is stated:

"In the absence of statutory or constitutional provisions to the contrary, usually personal property, both tangible and intangible, has its situs for taxation at the place of domicile or residence of the owner, or of which he is an inhabitant, and not elsewhere, * * *."

We feel that the statutes show a design on the part of the Legislature to make all personal property taxable at the place of residence of the owner. Section 14005, supra, applicable in counties under township organization, provides that the township assessor shall make his assessment in accordance with the general laws of the state in relation to the assessment of real and personal property by county assessors. A county assessor may assess only the personal property of persons residing within the county. He has no jurisdiction to assess the personal property owned by persons residing outside the county. The same limitation is, we feel, applicable to a township assessor insofar as personal property owned by persons residing without his township is concerned.

CONCLUSION

Therefore, this department is of the opinion that in a county under township organization, tangible personal property is assessed in the township in which an individual owner resides,

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rather than in the township in which the property is situated, where the residence of the owner and location of the property are not in the same township.

Respectfully submitted,

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Assistant Attorney General

Approved:

J. E. TAYLOR
Attorney General