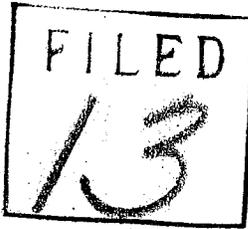


TAXATION:  
MUNICIPALITIES:

Personal property located without the city limits but belonging to a resident of the city is subject to taxation for municipal purposes.



March 25, 1954

Honorable N. Elmer Butler  
Prosecuting Attorney  
Stone County  
Galena, Missouri

Dear Sir:

Reference is made to your recent request for an official opinion of this office which reads in part as follows:

"The owner of certain personal property lives in Reeds Spring, Missouri, which is a city of the fourth class. In addition to personal property within the city limits where he resides, he owns certain other personal property located outside the city limits in Stone County, Missouri. May the city assessor assess personal tangible property tax on such property being outside the corporate limits of the City of Reeds Spring; and may the collector collect such tax?"

In answer to this question we need only refer you to the case of State to use of Divine v. Collier, 301 Mo. 72, 256 S.W. 455.

The question presented in that case was whether personal property located without the corporate limits of a city of the fourth class was taxable by the city wherein the appellant resided. Suit was brought by the city collector to collect taxes against said property located without the city limits and the circuit court allowed recovery. The defendant in that action appealed to the Supreme Court, and in its opinion, insofar as it is pertinent to the question at hand, said:

"II. The stipulation heretofore set out, contains the following:

"The property forming the basis of the assessment upon which the levy for these

Hon. N. Elmer Butler

taxes was made consisted of horses, cattle, mules, sheep, hogs, implements and machinery owned by the defendant, and kept and used upon a farm owned by him located outside the corporate limits of the city of Greenfield, but within the boundaries of Dade County, Missouri, and not used in any way in connection with his home in Greenfield.'

"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. 273-4; State ex rel. v. Pearson, 273 Mo. l.c. 78, 199 S.W. l.c. 943-4; State ex rel. v. Shepherd, 218 Mo. 656-7.

"It is conceded in the foregoing stipulation that, 'defendant herein is an actual resident of said city(Greenfield), residing within the corporate limits thereof in which place he has resided for more than ten years.'

"The judgment below is accordingly affirmed."

We have reviewed this opinion and the authorities referred to therein and are of the opinion that the decision in that case is yet controlling. (See also State ex rel. v. Timbrook, 145 Mo. App. 368.)

#### CONCLUSION

Therefore, it is the opinion of this office that a city assessor of a city of the fourth class may assess and the collector may collect taxes upon personal property having an actual situs without the city limits but belonging to a person who resides therein.

This opinion, which I hereby approve, was written by my assistant, Mr. Donal D. Guffey.

Yours very truly,

DDG:mw

JOHN M. DALTON  
Attorney General