

TAKATION: Nonresident servicemen stationed in Missouri  
SERVICEMEN: are not liable for personal property taxes on  
PERSONAL PROPERTY: personal property they bring with them. Resi-  
MILITARY SERVICE: dent servicemen are responsible for personal  
RESIDENTS: property taxes whether such tangible personal  
NONRESIDENTS: property is located in the state or out of state.

OPINION NO. 184

July 28, 1966

Honorable Richard J. Blanck  
Prosecuting Attorney  
Cooper County  
Boonville, Missouri



Dear Mr. Blanck:

This opinion is in response to your request wherein you submitted the following questions:

- "1. Is personal property located in this County on the 1st of January and owned by a member of the Armed Forces, stationed in the County, subject to personal property tax?"
- "2. Is personal property not located in this County on the 1st of January but owned by a member of the Armed Forces who claims Cooper County, Missouri, as his residence and domicile but is presently stationed outside the County and State, subject to personal property tax?"

Your first question must be determined having in mind the fact whether such serviceman is a resident or nonresident.

If the serviceman is a nonresident, your first question is answered in the negative. We have so held in our Opinion Attorney General No. 95, dated February 16, 1966, addressed to the Hon. Don E. Burrell, Prosecuting Attorney of Greene County. A copy of that opinion is attached.

If we assume the serviceman is a resident of Missouri, the first question would be answered in the affirmative. See our

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Opinion Attorney General No. 318, dated June 28, 1966, addressed to the Hon. Roy Carver. A copy of this opinion is also attached.

A caveat is noted that this Opinion No. 318 (supra) is subject, in its operation, to the provisions of Section 137.090, RSMo Supp. 1965, which reads as follows:

"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 that houseboats, cabin cruisers and automobile trailer houses used for lodging shall be assessed in the county where they are located and tangible personal property belonging to estates, which shall be assessed in the county in which the probate court has jurisdiction; provided, that no tangible personal property shall be simultaneously assessed in more than one county."

The above statute defines what county has jurisdiction to impose its taxes insofar as particular kinds of personal property are concerned. As this statute seems clear, we will not belabor this issue further.

We assume for the purposes of answering your second question that the taxing entity involved here is Cooper County. Inasmuch as the question does not specify whether the tangible personal property is located in Cooper County or accompanied the serviceman to an assignment out of the State of Missouri on a temporary basis, we shall consider the question in its broader aspects.

If the tangible personal property is located in Missouri, our Opinion Attorney General No. 318 (supra) holds that the serviceman is responsible to the appropriate taxing entities where such tax is properly levied.

If the tangible personal property accompanied the serviceman and he is outside the State of Missouri pursuant to military orders, the serviceman still must fulfill his obligation as a citizen of this state. This tax liability has been considered by the United States Supreme Court in *Dameron v. Brodhead*, 345 U.S. 322 1.c. 326, 73 S.Ct. 721, 97 L. Ed. 1041, where the Court said:

"\* \* \*In fact, though the evils of potential multiple taxation may have given rise to this

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provision, Congress appears to have chosen the broader technique of the statute carefully, freeing servicemen from both income and property taxes imposed by any state by virtue of their presence there as a result of military orders. It saved the sole right of taxation to the state of original residence whether or not that state exercised the right.\* \* \*

This view was recently reaffirmed by that court in California v. Buzard, 382 U.S. 386, 86 S.Ct. 478, 15 L. Ed.2d 436.

We find nothing in the statute or in case law that exempts a serviceman of the obligation of a citizen. However onerous, the payment of taxes to the appropriate taxing entities constitutes an obligation, like others, that a serviceman must fulfill. We believe this view is in consonance with the cited cases decided by the United States Supreme Court. See also, United States v. Arlington County Commonwealth of Virginia, (CA), 326 Fed.2d 929.

On the facts of this case, it is evident that the serviceman is a resident of Missouri; that he is stationed only temporarily in another state pursuant to military orders and his tangible personal property (which accompanied him) is only temporarily in such other state or place during his period of service there.

Applying the common law doctrine of "Mobilier Sequuntur Personam" (see Smith v. Ajax Pipe Line Co. 87 Fed.2d 567, 569), we are of the opinion that the power to tax the tangible personal properties of the serviceman temporarily located in another state would follow such resident serviceman.

Accordingly, we conclude the permanent situs of such tangible personal property would be in the domiciliary state and the county of the residence of such serviceman. By virtue of the above common law doctrine, we believe a resident serviceman is obligated to pay taxes on his tangible personal property which accompanies him even though such property may be outside the state.

#### CONCLUSION

It is the opinion of this office that:

1. Nonresident military personnel who bring personal property temporarily into this state pursuant to their military duty are not subject to a personal property tax by any taxing

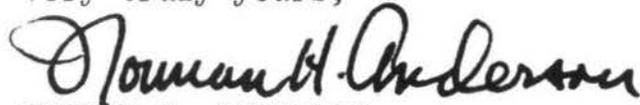
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entity of this state.

2. Resident military personnel, although not physically present in the state and county and whose tangible personal property may not be within the state, are still subject to personal property taxes where levied by an appropriate taxing entity.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Richard C. Ashby.

Very truly yours,



NORMAN H. ANDERSON  
Attorney General

Enclosures:

Opinion No. 93 (1953)  
Opinion No. 95 (1966)  
Opinion No. 318 (1966)