

1984 WL 249924 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 10, 1984

SUBJECT: Revenue and Taxation—Property Tax—Tax Situs of Motor Vehicles Used in Business.

*1 The tax situs of motor vehicles owned by a business and generally used by its employees to travel to and from their residences to the location of clients is at the employee's residence.

APPLICABLE LAW: [Section 12-37-890, 1976 South Carolina Code of Laws.](#)

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QUESTION:

Is the tax situs of motor vehicles within the City of Rock Hill when the business is situated within the city? The vehicles are generally used by the employees to commute to and from their homes to work locations that are not the business location of the employer.

DISCUSSION:

We first comment that the opinion herein is not free from doubt. An action to resolve the question would be appropriate.

Notwithstanding, [§ 12-37-890](#) provides the place where personal property is to be returned for taxation. When the property is used in a business it is to be 'returned for taxation and taxed in the county, city and town in which it is situated'. The term 'situated' was held to refer to 'taxable situs' in [Colonial Life & Acc. Ins. Co. v. South Carolina Tax Commission, 233 S.C. 129, 103 S.E.2d 908](#). It is logical to import the same meaning to the term as used in the section here considered. Further, under the section, a motor vehicle that is not used in a business is to be taxed at the residence of the owner or at the residence of the person having charge thereof if the owner does not reside within the state.

Here, the motor vehicles are owned by the business. The use is primarily business. Personal use is discouraged and employees pay for the personal use. The primary business of the company is consulting. The employees generally leave home and go directly to the client's offices and then return home. The vehicles are depreciated and the expenses of commuting are deducted for income tax purposes. The vehicles are garaged at the employee's residence as a convenience for the employer. This further reduces vandalism to the vehicles when left overnight at the business location.

An annotation of cases that treat the [situs of personal property for tax purposes is found in 2 ALR4th 432](#).

In [V. S. Dicarlo Masonary Co. v. Higgins, 178 Kan. 222, 284 P2d 640](#), automobiles of a nonresident corporation were held to have a tax situs in Kansas. The vehicles were driven by employees to their homes within the state every night for storage during the night, over weekends and holidays. Each morning when the employee left, he intended and expected the vehicle to be returned to his residence. In that case the vehicles were housed, protected and maintained at the residence of the employee.

In [Bryan v. Texas Services, Inc.](#), 499 S.W.2d 750, vehicles kept by a corporate owner in cities other than that of its domicile were held to have acquired a tax situs in such other cities.

*2 ‘*** to acquire a tax situs *** in a particular taxing jurisdiction, it is enough that the property be situated there with a degree of permanence which will distinguish it from property which is there on a transitory basis ***.’ [4 A.L.R.4th 483](#).

Here, the employees leave from their homes and drive directly to clients' offices and then return from the clients' offices to their homes. Under such, the vehicles have a tax situs at the employee's residence.

CONCLUSION:

The tax situs of motor vehicles owned by a business and generally used by its employees to travel to and from their residences to the location of clients is at the employee's residence.

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