

1979 S.C. Op. Atty. Gen. 35 (S.C.A.G.), 1979 S.C. Op. Atty. Gen. No. 79-25, 1979 WL 29031

Office of the Attorney General

State of South Carolina

Opinion No. 79-25

February 9, 1979

***1 SUBJECT: Property Tax—Taxability of charter boats owned by South Carolina residents when the boats are permanently outside the jurisdiction of the State.**

A charter boat having an actual situs outside South Carolina is not subject to taxation by the political subdivision of the State because the owner resides therein and the vessel is registered at a port within the subdivision.

To: Honorable Pauline S. Koger
Charleston County Auditor

QUESTION:

Is personal property of a resident that is without the State on a permanent basis subject to taxation by a political subdivision of the State?

APPLICABLE LAW:

§§ 12–37–710 and 12–37–890 of the 1976 South Carolina Code of Laws.

DISCUSSION:

Section 12–37–890 provides that personal property shall be returned for taxation:

‘* * * at the place where the owner thereof shall reside at the time of listing the same, if the owner reside in this State; if not, at the residence of the person having it in charge.’

Section 12–37–710 provides for the personal property that is to be returned. The language is:

‘Every person of full age and of sound mind shall annually list for taxation the following personal property, to wit:

- (1) All the tangible personal property in the State owned or controlled by him;
- (2) All the tangible property owned by him or by any other resident of this State and under his control which may be temporarily out of the State but is intended to be brought into the State;
- (3) All tangible personal property owned or controlled by him which may have been sent out of the State for sale and not yet sold; * * *.’

In the case here involved the charter boat has not been in South Carolina since the latter part of 1977 and its use is exclusively for charter purposes in the Bahamas.

The general rule is that:

'Tangible personal property is not subject to tax in a taxing jurisdiction unless it has acquired a situs in the jurisdiction, and no distinction is made between general property and inheritance taxes in determining the tax situs of tangible personalty. Although, in determining the situs of tangible personal property, two opposed considerations, that is, place of ownership and place of property location, have been applied and have caused some legal difficulty in the broad application of the principle of mobilia sequuntur personam, the general rule is that movable property which has a value of its own, instead of being merely the evidence or representative of value, and which has a visible and substantial existence, is taxable where it is usually or permanently kept, and, if located in the state or territory, it is taxable there regardless of the residence or domicile of the owner, * * *.' 84 C.J.S. Taxation, § 115, p. 224; see also § 321.

Under the facts as stated the charter boat has not been in South Carolina since October 1977 and such evidence establishes that it has a tax situs outside the State. Further, [§ 12-37-710](#) does not require the listing or taxation of the vessel by this State.

CONCLUSION:

*2 A charter boat having an actual situs outside South Carolina is not subject to taxation by the political subdivision of the State because the owner resides therein and the vessel is registered at a port within the subdivision.

Joe L. Allen, Jr.
Deputy Attorney General

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