

1974 WL 28028 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 11, 1974

*1 The parking of trucks overnight on a somewhat continuous basis in a municipality would not constitute a sufficient basis for a tax situs for the trucks in the municipality for tax purposes.

Mrs. Miriam J. Egleston
Clerk
Town of North
Post Office Box 422
North, South Carolina 29112

Dear Mrs. Egleston:

Reference is made to your letter of December 4, 1974, wherein you request the opinion of this office of whether certain trucks are subject to property taxation by the Town of North. You advise that the owner of a trucking firm who lives outside the Town limits parks several vehicles by City Hall each night for police protection and you inquire whether the same are taxable.

Section 65-1643 provides in part as follows:

'All * * * other vehicles used in any business * * * shall be returned for taxation and taxed in the county, city and town in which it is situated.'

'Situating' has been defined by our court to mean the taxable situs of the property.' [Colonial Life and A. Insurance Co. v. South Carolina Tax Commission](#), 233 S. C. 129, 103 S. E. 2d 908. The term is further defined to mean:

"Situating as used in statute providing that taxable property shall be assessed at place in which it is situated," connotes a more or less permanent location or situs, and the requirement of permanency must attach before tangible personalty which has removed from the domicile of the owner will attain a situs elsewhere.' [39 Words and Phrases](#), page 464, citing [Brock & Co. v. Board of Sup'rs. of Los Angeles County](#), 8 Cal. 2d 286, 65 P.2d 791, 110 A.L.R. 700

It is doubtful that the parking of the trucks in the Town's limit solely for the purpose of police protection affords a sufficient factual base upon which to conclude that the trucks had obtained a tax situs within the Town for property tax purposes. We enclose a copy of an opinion of this office of September 28, 1966, wherein the reverse to your situation was considered. The garage where the trucks were kept in that case was outside the city limits of Summerville, however, the tax situs was within the City. It is assumed that the business has no location in the Town of North and that there is no other customary use of the trucks in the Town except the parking.

Yours very truly,

Joe L. Allen, Jr.
Assistant Attorney General

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