

**Money, Where Assessable—Assessment of Money.**

The situs of money on deposit for the purpose of assessment depends upon the character of the deposit.

May 22, 1920.

Mr. M. L. Parcels,  
County Attorney,  
Columbus, Montana.

Dear Sir:

I am in receipt of your letter of recent date requesting my opinion with reference to the following statement of facts:

One W. W. Young, an actual resident of Stillwater County, was assessed by the county assessor of Stillwater County for money which he had on deposit in a bank at Big Timber in Sweet Grass County, Montana. He was also assessed by the county assessor of Sweet Grass County for the same money on the ground that the money was within Sweet Grass County, and that under Sections 2510 and 2518 of the Revised Codes on the money on deposit in the bank should be assessed in the county where deposited.

When money is deposited in a bank it is either a special or a general deposit. If it is deposited for a special or particular purpose, the identical money deposited to be repaid to the depositor, or applied to some particular purpose for his benefit, it is a special deposit, and the title to the money remains in the depositor, otherwise it is a general deposit and the depositor parts with the title to the money and it becomes the property of the bank. This is well stated in 2 Michie on Banks and Banking, Section 153 and Section 119 (2b):

“A special deposit is one in which the depositor is entitled to the return of the identical thing deposited and the title remains in the depositor. A general deposit is one which is to be repaid on demand in money, and the title to the money deposited passes to the bank.”

“Deposits made with banks may be divided into two classes; those in which the bank becomes the bailee of the depositor, the title to the thing deposited remaining with the latter; and those where the money is the thing deposited in accordance with a custom peculiar to the banking business, where the depositor, for his own convenience, parts with the title to the money and loans it to the bank and the latter, in consideration of the loan of the money and the right to use it for its own profit, agrees to refund the same amount, or any part thereof, on demand. A general deposit is where a sum of money is left with a bank for safekeeping subject to order, and payable, not in the specific money deposited but in an equal sum, whether it bears interest or not. In other words, a general deposit in a bank or so much money to the depositor’s credit is a debt to him from the bank, payable on demand, to his order, in property capable of identification and specific appropriation.”

In 1 Morse on Banks, Section 289, it is said:

“The ordinary relation existing between a bank and its customer, if not complicated by any further transaction than that of the depositing and withdrawing of moneys by the customer from time to time, is simply that of debtor and creditor at common law whether the deposit is on demand or on time. The original and every subsequent deposit by the customer is in strict legal effect a loan by the customer to the bank, and, a converse, every payment by the bank to, or on account of, the customer is a repayment of the loans protanto. All sums paid into the bank on general deposit by the same or different depositors from one blended fund. So as the money has been handed over by the payer it is at once the proper money of the bank. It enters into the general fund and capital and is indistinguishable therefrom. Thereafter the depositor has only a debt owing him from the bank; a chose in action, not in any specific money, or a right to any specific money.”

When the money is deposited as a general deposit, as stated, it becomes the property of the bank, the bank becomes a debtor of the depositor and the depositor as a creditor of the bank is the owner of a solvent credit in the nature of a chose in action, and does not own or have any title whatever to any money in the bank.

Therefore, under the facts stated, if the deposit by Young was a special deposit, Young still retained title to the money, and such money being in Sweet Grass County it was assessable by the County Assessor of that county and was not assessable by the county assessor of Stillwater County; while, on the other hand, if it was a general deposit Young was not the owner of any money either in Stillwater County or in Sweet Grass County, but he was the owner of a solvent credit, in the nature of a chose in action, which was assessable. The situs for taxation of a solvent credit in the nature of a chose in action always follows the domicile of the owner, consequently if this was a general de-

posit, Young being a resident of Stillwater County, this solvent credit was not assessable in Sweet Grass County, but was assessable in Stillwater County, the county of his domicile.

City and County of San Francisco v. Lux, 2 Pac. 254;  
Grundy County v. Tenn. C. I. & R. Co., 29 S. W. 116;  
Harting v. City of Lexington, 43 S. W. 415;  
Pyle v. Brennerman, 122 Fed. (CCA) 787;  
Pac. Coast Sav. Soc. v. City and County San Francisco, 65 Pac. 16;  
Janin v. L. & S. F. Bank, 27 Pac. 1100;  
Note to New England Mut. Life Ins. Co. v. Beard, 26 L. R. A.  
(N. S. 1120.

Truly yours,

S. C. FORD,

Attorney General.