

Automobiles—Assessment—Taxation.

The double taxation of personal property is illegal.

Tangible personal property such as automobiles should be assessed for taxation in the county in which it is situated on the first Monday in March of any year, regardless of the legal residence of the owner thereof.

Urban F. Isaacs, Esq.,
Dillon, Montana.

June 3, 1926.

My dear Mr. Isaacs:

You have submitted the following statement of facts and request for an opinion:

You are a resident of Powder River county and paid both personal and real estate taxes in said county. You are attending the state normal college in Beaverhead county and have an automobile which on the first Monday of March, 1926, was located in Beaverhead county. You desire to be advised whether this automobile should be taxed in Powder River county, the county of your permanent residence, or in Beaverhead county, the county in which the property was located on the first Monday in March, 1926.

With reference to your inquiry about double taxation, this property cannot be legally taxed in both counties. It acquires a situs for purposes of taxation in one county only and you cannot be compelled to pay taxes thereon in both counties.

Section 2002 R. C. M. 1921, provides in part that:

“The assessor must, between the first Monday of March and the second Monday of July in each year, ascertain the names of all taxable inhabitants, and *all property* in his county subject to taxation * * * and must assess such property to the persons by whom it was owned or claimed, or in whose possession or control it was at 12:00 o'clock M., of the first Monday of March next preceding.”

From the above section it appears that the location of property in a given county on the first Monday of March authorizes its assessment in such county, except in certain special cases such as that of migratory livestock, where the statute provides a different rule.

In the recent case of *State ex rel Rankin vs. Harrington*, 68 Mont. 1, the court discussed at length the question of the situs of personal property. The court discussed the ancient maxim *mobilia sequuntur personam* and

held that it was not of universal application and that it may for the purposes of taxation and judicial proceedings be affected by the law of the place where the property is in fact situated. The Harrington case involved intangible property but the court quoted with approval the rule above stated from the California case of *People vs. Home Ins. Co.* 29 Cal. 53, in which that court said:

"This general principle applies to all personal property whether corporeal or incorporeal."

It, therefore, seems to me that the reasoning of the Harrington case is equally applicable to tangible personal property such as automobiles. Applying the statute above quoted, and the rules announced by the court in the Harrington case, it is my opinion that if, on the first Monday of March, 1926, your automobile was actually in Beaverhead county, it was the duty of the assessor of that county to assess it for taxation, notwithstanding the fact that your legal residence at the time was Powder River county.

Very truly yours,

L. A. FOOT,
Attorney General.