

Opinion No. 189.

**Taxation—License—Automobiles—
Situs for Taxation.**

HELD: Automobiles are assessed, taxed and licensed in the county of their business situs, or where they are habitually used as of the first day of January.

January 22, 1940.

Mr. John M. Comfort
County Attorney
Virginia City, Montana

My dear Mr. Comfort:

You have submitted to this office the following facts for my opinion:

The registered owner of an automobile lives and resides in one county and the automobile is used and situated in another. The question involved is, whether the automobile should be licensed in the county of the owner's residence or in the county where the automobile is used and situated.

Sections 2013 and 2015 to 2022 inclusive expressly designate the county in which certain kinds of property should be taxed. Section 2023 provides that all other property shall be taxed in the county where it is situated. Automobiles are excluded from the property designated in Section 2013 and Sections 2015 to 2022 inclusive, and consequently are included in the property designated in Section 2023. (Op. of A. G. 215, Vol. 17.) As a factual matter automobiles are ordinarily used and situated in the county of the owner's residence and domicile, assessed as of the first day of January and taxed and licensed therein (Chapter 72, Laws, 1937; *Valley County v. Thomas et al.*, 109 Mont. 345), but where the automobile has a business situs or is habitually used in another county, it is assessed, taxed, and licensed therein (*State ex rel. Rankin v. Harrington*, 68 Mont. 1).

The facts submitted by you are insufficient to determine which is the proper county to license the automobile. but a determination of the facts as existing on the first day of January, subject to the rule herein enunciated, will enable you to decide whether or not your county is entitled to collect the license.