

Opinion No. 56

**Counties, Taxation of Motor Vehicles—House Trailers, Licensing,
Taxation—Motor Vehicles, Assessment, Registration, Taxation,
Licensing—Residence, Permanent—Situs, Motor Vehicles,
House Trailers—Taxation, Motor Vehicles, House Trailers**

**Held: A house trailer must be licensed and taxed by the county of
the owner's permanent residence at the time of application for
and issuance of license plates.**

June 10, 1958

Dr. Roland R. Renne
President
Montana State College
Bozeman, Montana

Dear Dr. Renne:

You have asked whether Gallatin County may tax and license a house trailer located in Bozeman and belonging to a student attending Montana State College who maintains permanent residence in Pondera County.

A house trailer is a motor vehicle under the Montana law controlling assessment, taxation, registration and licensing of motor vehicles (Sec. 53-104, RCM, 1947).

Referring to motor vehicles generally, Section 53-119, RCM, 1947, provides in part:

“. . . No person shall purchase or display on such vehicle any license plate bearing the number assigned to any county as provided in section 53-106 [part (5) of this section prescribes license plate county designation numbers], other than the county of his permanent residence at the time of application for and issuance of said license plates . . .”

This provision was enacted by the twenty-seventh Montana legislative session and approved February 28, 1941. This was the first legislative session subsequent to the decision of the Montana supreme court in the case of *Valley County v. Thomas* (109 Mont. 345), which was handed down December 4, 1939.

In the *Valley County* case, the court struggled valiantly with the complex question of the taxable situs of a motor vehicle and the distinction between temporary and permanent situs. The court concluded that:

"While under some circumstances a motor vehicle may be permanently or habitually kept in another county, its ownership, and therefore its situs for license and tax purposes, is ordinarily in the county of its owner's actual residence or domicile."

It is quite apparent that the next legislature, in amending section 53-119, *supra*, by the enactment of Section 1, Chapter 73, Laws of 1941, adopted the rationale of the *Valley County* case and attempted to clear up the confusion noted there by specifying the permanent residence of the motor vehicle owner at the time of licensing as the vehicle's situs for the purpose of licensing.

It is equally clear that Section 53-114, RCM, 1947, was intended by the legislature to establish a system under which personal property taxes due and owing on motor vehicles are ordinarily paid at the time the vehicle is registered or re-registered and licensed. Under part (2) of that section, notice of assessment is given at the time the motor vehicle owner applies for registration. Under part (3), payment of the personal property tax on the vehicle is made a condition precedent to acceptance of application for registration, and on application for registration the county treasurer is empowered to make full and complete investigation of the vehicle's status. Part (4) indicates clearly that the legislature intended the personal property tax would be computed at the time the owner applies for registration.

As the legislature has specifically provided that the situs of a motor vehicle for the purpose of licensing is the county of the owner's permanent residence at the time the vehicle is licensed, and as it is clear that the legislature intended that taxation of the vehicle would be concurrent with licensing, I must conclude that the situs of a motor vehicle for the purpose of both licensing and personal property taxation is ordinarily the county of the owner's permanent residence at the time the owner applies for licensing and registration. Exceptions to this rule, such as the one made in part (5) of Section 53-114, *supra*, are clearly set out in the codes.

You state the student involved in the case you refer to is a permanent resident of Pondera County. Assuming this is true as a matter of fact, I conclude that Gallatin County may not tax and license the students' trailer for the reasons given above.

It is, of course, impossible for me to render an opinion covering all cases because the question of permanent residence always involves a question of fact, and the facts vary widely from case to case. However, I feel it appropriate to note that our state constitution specifically provides residence is not, for the purpose of voting, gained or lost while attending an institution of learning (Art. IX, Sec. 3). Reference should also be made to Section 83-303, RCM, 1947, wherein the rules for determining residence are set forth. In this section, residence is defined as "the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he returns in seasons of repose," and it is specified that residence can be changed only by the union of act and intent. Our supreme court has not defined the residential status of a student attending one of the units of our state university system. However, it seems to me that a college or university student is, in the ordinary case, pursuing a temporary purpose and intends to return to his home when that purpose is accomplished. To find that a college or university student has permanently changed his residence from the county from which he came to the county in which the educational institution is located, would require, therefore, a clear showing that the student has permanently abandoned his former residence and does not intend to return there at the conclusion of his residence at the institution.

It is therefore my opinion that a house trailer must be licensed and taxed by the county of the owner's permanent residence at the time of application for and issuance of license plates.

Very truly yours,
FORREST H. ANDERSON
Attorney General