



STATE OF KANSAS

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December 20, 1985

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ATTORNEY GENERAL OPINION NO. 85- 182

The Honorable Benjamin Foster
State Representative, Eighty-Fifth District
205 Woodlawn Central Building
400 North Woodlawn
Wichita, Kansas 67208

Re: Taxation -- Listing Property for Taxation -- Situs
of Personal Property in Transit

Synopsis: Pursuant to K.S.A. 79-304, personal property in transit is required to be listed and taxed in the district where the owner resides, unless the property is intended for a particular business. In such event, the taxing district where the business is to be transacted is to be used. In the case of industrial laundries, the property is not intended for a particular business other than the cleaning, maintenance and delivery services which are performed from the home office. Accordingly, industrial laundries should list their personal property in the taxing district in which they are located, not the district where each individual customer resides. Cited herein: K.S.A. 79-304.

* * *

Dear Representative Foster:

As State Representative for the Eighty-Fifth District, you request our opinion on a question concerning the application of K.S.A. 79-304. Specifically, you ask where the personal property of an industrial laundry which services numerous counties in the state should be taxed, when that property is in transit on the day when such property is listed and taxed (January 1).

K.S.A. 79-304 requires:

"The property of banks, bankers, brokers, merchants, and of insurance or other companies (except of mutual fire insurance companies) shall be listed and taxed in the taxing district where their business is usually done"

It further states:

"Personal property in transit shall be listed in the taxing district where the owner resides: Provided, however, That if such property is intended for a particular business, it shall be listed at the place where the business is to be transacted."

The Kansas statutes modify the ancient doctrine of mobilia sequuntur personam (i.e. the situs of personal property has the situs of the owner's domicile). 2 A.L.R.4th 432, 439 (1980). "The modern rule, in the absence of a statute to the contrary, is that the actual situs of visible tangible personal property and not the domicile of the owner, determines the place of taxation." Ray v. Board of County Comm'rs, 173 Kan. 859, 863, 252 P.2d 899 (1953). A strict application of this modern rule is not possible in all cases, however, because of the transient nature of some kinds of property. The property must acquire a more or less permanent location in the taxing district before tax may be imposed.

The personal property of industrial laundries (i.e. uniforms, towels, etc.) is, by nature, in transit. The articles are accumulated at a central location for repair, maintenance and cleaning. They are then distributed to the various customers the laundry serves, used, and returned to the laundry to repeat the cycle.

Under K.S.A. 79-304, personal property in transit is required to be taxed at the place of the owner's residence. Normally, laundry articles would be taxed at the place of the business' central office. It may be argued, however, that the laundry articles are in fact intended for a particular business (i.e. that of the customer) and because of this situation, the statute requires taxation to occur in the district where the business is transacted. However, an industrial laundry is not selling towels, uniforms, etc., but instead rents them,

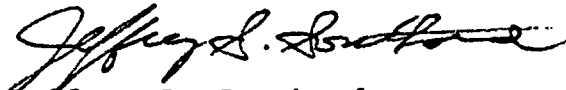
and supplies the service of cleaning and maintaining the supply on a continuous basis.

Accordingly, it is our opinion that the statute requires all personal property of the laundry to be listed and taxed in the district where the laundry receives, cleans, and ships the towels and uniforms. Therefore, the place of the business transaction should be the central laundry, as the place "where the owner resides," and not the location of each individual customer, if such be located in a different taxing district than the laundry site.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



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RTS:JSS:crw