

Attorney General Opinions

Opinion Number: 01-083
Tax Type: Property Tax
Brief Description: Motor vehicle owned by serviceman domiciled in Virginia and parked or garaged in Germany is not subject to local tangible personal property taxation
Topics: Property Subject to Tax
Date Issued: 11/21/2001

The Honorable Raymond Lee Richards

Commissioner of the Revenue for the City of Charlottesville

You ask whether a certain motor vehicle owned by a serviceman domiciled in Virginia is subject to local tangible personal property taxation.

You relate that the motor vehicle of the serviceman domiciled in Virginia is located in Germany. I assume that the serviceman is in Germany in compliance with military orders and that the vehicle is parked, stored, or garaged in Germany. Additionally, you relate that the vehicle is not registered in Virginia. You state that the personal property assessment on the motor vehicle is based on the Soldiers' and Sailors' Civil Relief Act.

The Soldiers' and Sailors' Civil Relief Act of 1940, as amended,¹ exempts a serviceman from taxation on his personal property in any state except his state of domicile.² Therefore, whereas a Virginia locality cannot tax motor vehicles owned by nondomiciliary service people who are stationed in Virginia,³ the Soldiers' and Sailors' Civil Relief Act does not operate to prohibit a Virginia locality from taxing motor vehicles owned by service people domiciled in Virginia in accordance with the Virginia statutes that govern local tangible personal property taxation. Accordingly, your inquiry must be resolved pursuant to the Virginia statute that governs it.

Section 58.1-3511(A) of the *Code of Virginia* establishes the situs of tangible personal property for local personal property taxation.⁴ As a general rule, property is taxable in the jurisdiction in which the property is located on tax day, rather than in the jurisdiction in which the owner is domiciled.⁵ The situs of certain mobile property, such as motor vehicles, is the jurisdiction in which the property is normally parked or garaged.⁶ § 58.1-3511(A) provides three instances in which the domicile of the owner, rather than where the vehicle is normally parked or garaged, controls situs: (1) when it cannot be determined where the vehicle is normally parked or garaged; (2) when the owner is domiciled in another state and pays a personal property tax on the same vehicle in the state of his domicile; and (3) when the vehicle is owned by a student attending an institution of higher education.⁷

Under the common-law doctrine of *mobilia sequuntur personam*,⁸ the situs for the taxation of movable personal property is the domicile of the owner.⁹ This common-law rule, however, may be changed by the legislature at its pleasure.¹⁰ A 1995 opinion of the Attorney General recognizes that § 58.1-3511(A) changes the common-law rule for most tangible personal property.¹¹ The opinion further notes that the statute expressly retains the rule in the three instances stated above.¹² Accordingly, situs for the motor vehicle in question is the jurisdiction in which the vehicle is parked or garaged unless it falls within one of the express provisions in the statute in which domicile is regarded as the taxable situs.¹³

Based on the facts that you provide, I must conclude that the motor vehicle in question does not fall within any of the statutory provisions that enable a Virginia locality to utilize the serviceman's domicile as the taxable situs for his motor vehicle rather than where the motor vehicle is parked or garaged. Accordingly, it is my opinion that the vehicle is not subject to local tangible personal property taxation.¹⁴

¹50 U.S.C.A. App. § 574 (West Supp. 2001).

²See *id.* § 574(1); *United States v. Arlington County, Commonwealth of Virginia*, 326 F.2d 929, 933 (1964).

³See Va. Code Ann. § 58.1-3511(A) (Michie Repl. Vol. 2000); 1984-1985 Op. Va. Att'y Gen. 363, 364.

⁴Section 58.1-3511(A) provides: "The situs for the assessment and taxation of tangible personal property, merchants' capital and machinery and tools shall in all cases be the county, district, town or city in which such property may be physically located on the tax day. However, the situs for purposes of assessment of motor vehicles, travel trailers, boats and airplanes as personal property shall be the county, district, town or city where the vehicle is normally garaged, docked or parked; however, the situs for vehicles with a weight of 10,000 pounds or less registered in Virginia but normally garaged, docked or parked in another state shall be the locality in Virginia where registered. Any person domiciled in another state, whose motor vehicle is principally garaged or parked in this Commonwealth during the tax year, shall not be subject to a personal property tax on such vehicle upon a showing of sufficient evidence that such person has paid a personal property tax on the vehicle in the state in which he is domiciled. In the event it cannot be determined where such personal property, described herein, is normally garaged, stored or parked, the situs shall be the domicile of the owner of such personal property. However, in the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile. Any person who shall pay a personal property tax on a motor vehicle to a county or city in this Commonwealth and a similar tax on the same vehicle in the state of his domicile, or in the state where such vehicle is normally garaged, docked, or parked, may apply to such county or city for a refund of such tax payment. Upon a showing of sufficient evidence that such person has paid the tax for the same year in the state in which he is domiciled, the county or city

may refund the amount of such payment." See 1995 Op. Va. Att'y Gen. 268, 269.

⁵See § 58.1-3511(A); 1995 Op. Va. Att'y Gen., *supra*, at 269.

⁶See *id.*

⁷1995 Op. Va. Att'y Gen., *supra*, at 269.

⁸"Movables follow the person—i.e., the law of the person." Black's Law Dictionary 1019 (7th ed. 1999).

⁹See *Hogan v. County of Norfolk*, 198 Va. 733, 734, 96 S.E.2d 744, 745 (1957).

¹⁰*Id.* at 735, 96 S.E.2d at 745.

¹¹See 1995 Op. Va. Att'y Gen., *supra* note 4, at 269.

¹²See *id.*

¹³Section 58.1-3511(A) also provides that "the situs for vehicles with a weight of 10,000 pounds or less registered in Virginia ... shall be the locality in Virginia where registered."

¹⁴To the extent my conclusion conflicts with a 1973 opinion concluding that a vehicle owned by a Virginia domiciliary serviceman but garaged outside the Commonwealth may be taxed by the Virginia locality of domicile, such opinion is expressly overruled. 1972-1973 Op. Va. Att'y Gen. 410.