



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

WILD C. MANN
ATTORNEY GENERAL

April 6, 1939

Honorable Wm. B. Martin
Assistant District Attorney
Hill County
Hillsboro, Texas

Dear Sir:

Opinion No. O-346
Re: Taxability of rolling stock
of a truck line that passes
through the county.

This is in answer to your letter of March 3, 1939, which reads, in part, as follows:

"This office would appreciate an opinion on the following question: May a county collect any monies from truck companies that pass through the county when they load and unload supplies and goods?"

"To make the question a little better: Certain truck companies have stations, as railroads do, where they load and unload freight. These truck lines will put on a load in Ft. Worth or some other place and when they get to Hillsboro they will put off what goes to Hillsboro and then go on. Some of the companies keep agents here to do the work. The county wants to tax them if possible."

We assume that you are referring to ad valorem taxes. This question was answered in an opinion by this department, dated May 5, 1930, written by H. Grady Chandler, Assistant under Attorney General Pollard, in which it was said that McLennan County did not have the right to tax trucks that operated regularly through that county but were owned by a corporation whose principal office was in another county, and the opinion held as follows:

"The rolling stock of a motor transportation company which is operated through five

113H
JUN 1939
rt
qsa
si
07
01
16
07
-2
13

counties is taxable only at the principal office of the owner."

It was pointed out in that opinion that ordinarily personal property "is taxable only at the domicile of its owner" but that it may acquire a taxable situs in a county where it is continuously used (Great Northern Life Insurance Company vs. City of Austin, 112 Tex. 1, 243 S.W. 778, 26 R.C.L. 273), and as the motor trucks in question were used in several counties that they could not acquire a taxable situs outside of the owner's domicile. It was also pointed out that the rule as to the situs for taxation of rolling stock of railroads is different by virtue of Article VIII, Section 8, of the Constitution of Texas, and Article 7169 of the Revised Civil Statutes of Texas.

At the time this opinion by Mr. Chandler was written there were no appellate court decisions on the question, but on November 29, 1931, the Court of Civil Appeals at Fort Worth, in the case of City of Fort Worth vs. Southland Greyhound Lines, Inc., 67 S.W. (2d) 554, expressly confirmed Mr. Chandler's opinion, and held that the City of Fort Worth could not tax buses owned by a corporation whose domicile was in San Antonio, Texas, even though the buses were stationed in Fort Worth part of the time, and in that case the court said:

"Is the rolling stock of a motor transportation company, incorporated under the laws of and having its principal office in the state of Texas, which operates between numerous large cities in the state of Texas, and with its domicile at San Antonio, due and payable in Bexar county, or a portion of which is due and payable at Fort Worth, in Tarrant county? * * *

"In volume 26, R.C.L., Sec. 246, it is said:
* * *

"As between the different counties, cities and towns of a state, the right of the legislature to regulate the situs of rolling stock for purposes of taxation is of course plenary. When no special provision has been made it is usually held that the situs for the taxation of the rolling stock of a railroad is the city or town in which the railroad company's principal office is located and that railroad rolling stock has no situs for purposes of taxation in towns in which its trains stop only temporarily to receive and discharge freight and passengers. * * *

48

1000 Honorable Wm. B. Martin, April 6, 1939, Page 3

APPROVED:

Gerald M. ...
ATTORNEY GENERAL OF TEXAS

and by
intro.

of case
of state
intro
order
of law

of
state
intro
of law