



COMMONWEALTH of VIRGINIA

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December 18, 2023

Cameron S. Bell, Esquire
Abingdon Town Attorney
c/o PennStuart
208 East Main Street
Abingdon, Virginia 24210

Dear Mr. Bell:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You inquire regarding the assessment of personal property taxes of certain vehicles that are regularly, but not exclusively, stored in the Town of Abingdon. In essence, you ask under what circumstances a locality serves as the situs for the imposition of such taxes.

Background

You relate that there are several storage businesses within the Town of Abingdon, which is part of Washington County, Virginia. Customers store boats and travel trailers in these businesses' Abingdon facilities. You indicate that these vehicles, although routinely stored in Abingdon, are "primarily stored, registered and used at nearby South Holston Lake." South Holston Lake is not located within Abingdon; parts of the area are in Washington County while others are in Sullivan County, Tennessee. You advise that none of the vehicles in question are used for business purposes. Additionally, none of the vehicles are registered in Abingdon.¹ You indicate that some confusion has arisen as to the authority of the Town to assess personal property taxes for these vehicles.

Applicable Law and Discussion

Vehicles are a form of tangible personal property that "shall be assessed for local taxation in such manner and at such times as the General Assembly may prescribe by general law."² Local taxes "can only

¹ You indicate that some of the vehicles are registered in Washington County, while others are registered in Tennessee or another state outside Virginia.

² VA. CONST. art. X, § 4.

be assessed, levied and collected in the manner prescribed by express statutory authority.”³ Section 58.1-3511 of the *Code of Virginia* governs your inquiry.⁴

With respect to the issue you present, § 58.1-3511(A) establishes that “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”⁵ Prior opinions consistently have concluded that the phrase “normally garaged, docked or parked” means that the vehicle must have been located in a particular jurisdiction for six months or more during the year.⁶ When a Virginia locality thus qualifies as a tax situs, where the vehicle is registered is irrelevant.⁷ Rather, the plain language of § 58.1-3511(A) makes clear that the tax situs of a boat or travel trailer generally is the particular Virginia locality where it is “normally garaged, docked or parked.”⁸

Registration is relevant under § 58.1-3511(A) only when a vehicle is “normally garaged, docked or parked in another state” but is nonetheless registered in Virginia. The statute directs that for such “vehicles with a weight of 10,000 pounds or less[,]” the situs “shall be the locality in Virginia where registered.” Accordingly, if a vehicle meets this description, it will have a tax situs in the Virginia locality in which it is registered, notwithstanding the fact that it is normally garaged, docked or parked outside the Commonwealth.⁹ Per the statute, weight only becomes a consideration when the vehicle is normally garaged

³ *City of Richmond v. SunTrust Bank*, 283 Va. 439, 442 (2012) (quoting *Woodward v. City of Staunton*, 161 Va. 671, 673 (1933)).

⁴ In applying the terms of § 58.1-3511, we “must ‘take the words as written’ and give them their plain meaning.” *Diggs v. Commonwealth*, 6 Va. App. 300, 302 (1988) (quoting *Brown v. Lukhard*, 299 Va. 316, 321 (1985)). The statute’s plain language is binding “unless the terms are ambiguous or applying the plain language would lead to an absurd result.” *City of Charlottesville v. Payne*, 299 Va. 515, 527 (2021) (quoting *Boynton v. Kilgore*, 271 Va. 220, 227 (2006)).

⁵ This is an exception to the more general rule the statute applies to other forms of tangible personal property; that rule provides that the tax situs for the assessment “shall in all cases be the county, district, town or city in which such property may be physically located on the tax day.” Section 58.1-3511(A).

⁶ See 2003 Op. Va. Att’y Gen. 179, 180; 1990 Op. Va. Att’y Gen. 264, 264-65; 1987-88 Op. Va. Att’y Gen. 592, 593; 1986-87 Op. Va. Att’y Gen. 329, 330; 1984-85 Op. Va. Att’y Gen. 369, 370-71.

⁷ See 1984-85 Op. Va. Att’y Gen. 368, 368 (noting that “[p]revious Opinions of this Office have held that the place of issuance of the registration and license tags is not controlling in the determination of the situs of a vehicle for personal property taxation”).

⁸ Although January 1 is “the effective date of assessment or the tax day” for tangible personal property tax, § 58.1-3515 (2022), this Office has noted that “January the first is simply the date on which the factual determination of situs must be made. The physical location of the property on that date is not determinative of situs under [§ 58.1-3511].” 1979-80 Op. Va. Att’y Gen. 353, 353 (discussing former Code § 58-834, predecessor statute to § 58.1-3511). Rather, it is “where the property is normally located throughout the year, with the facts to be evaluated as they existed on January 1.” 1984-85 Op. Va. Att’y Gen. 369, 370. Accordingly, unlike other tangible personal property, the physical location of a motor vehicle, travel trailer, boat or airplane on January 1 is not determinative of this inquiry. Rather, the commissioner of the revenue must assess on that date where the property “is normally garaged, docked or parked,” which may or may not be where it is located on January 1. See also 1991 Op. Va. Att’y Gen. 244, 245; 1973-74 Op. Va. Att’y Gen. 385, 385.

⁹ Nevertheless, “[a]ny 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.” Section 58.1-3511(A) (emphasis added).

outside the Commonwealth; otherwise, as described above, the locality in Virginia where the vehicle is “normally garaged, docked or parked” is the proper situs.¹⁰ Implicit in the statute is that a vehicle over 10,000 pounds that is neither normally garaged nor registered in Virginia will have no tax situs in any Virginia locality.¹¹

Applying these principles to your inquiry, I reach the following conclusions. First, any motor vehicle, travel trailer or boat determined to be normally garaged, docked, or parked in Abingdon is subject to personal property taxes imposed by the Town, irrespective of weight or place of registration.¹² Next, a vehicle weighing 10,000 pounds or less but normally docked at Lake Holston in Tennessee that is registered in the Town of Abingdon also would be sited in the Town for property tax purposes. Finally, a vehicle, regardless of its weight, that is neither registered in Virginia nor normally garaged, docked, or parked in the Town for six months or more, would not have a situs within the Town for tax purposes.¹³

Ultimately, whether a specific locality is the appropriate situs of any particular boat or travel trailer is a factual question to be determined by the commissioner of the revenue of that locality or other appropriate tax official.¹⁴ Attorneys General historically have declined “to render official opinions when the request involves determinations of fact rather than questions of law”¹⁵ or when the inquiry involves “the interpretation of a matter reserved to another entity.”¹⁶ Consistent with this practice, I am unable to address whether a particular vehicle is taxable in any specific jurisdiction.

Conclusion

Accordingly, although the status of any particular boat or travel trailer is a fact-specific inquiry, it is my opinion that vehicles generally do not acquire a situs in a locality for local taxation purposes unless such vehicles are normally garaged, docked or parked within that locality. It is further my opinion that the

¹⁰ I note, however, that certain vehicles that are used for business purposes are subject to a distinct situs provision under § 58.1-3511(A). *See* 2009 Op. Va. Att’y Gen. 174. The pertinent statutory language provides that

If the owner of a business files a return pursuant to § 58.1-3518 for any vehicle with a weight of 10,000 pounds or less registered in Virginia and used in the business with the locality from which the use of such vehicle is directed or controlled and in which the owner’s business has a definite place of business, as defined in § 58.1-3700.1, the situs for such vehicles shall be such locality, provided such owner has sufficient evidence that he has paid the personal property tax on the business vehicles to such locality.

As your opinion request does not encompass any vehicles that are used in conjunction with a business, I make no comment on the application of this provision here.

¹¹ Section 58.1-3511(A) additionally provides that “[i]n the event it cannot be determined where . . . personal property, [as] described herein, is normally garaged, stored or parked, the situs shall be the domicile of the owner of such personal property.”

¹² Recognizing that “tangible personal property can be physically located in both a town and a surrounding county at the same time[,]” a prior Opinion of this Office concludes that, pursuant to § 58.1-3511(A), the “county and town concurrently may assess tangible personal property taxes on [the] tangible personal property located within their mutual boundaries.” 2014 Op. Va. Att’y Gen. 100, 101, 102.

¹³ I further conclude that, if a vehicle is 10,000 pounds or less and is normally garaged, docked or parked in Sullivan County, Tennessee, it will have a situs in Washington County if it is registered there; if that vehicle, however, is registered in Tennessee or another state outside Virginia, it will have no situs in Virginia.

¹⁴ *See, e.g.*, 1984-85 Op. Va. Att’y Gen. at 400.

¹⁵ 2002 Op. Va. Att’y Gen. 321, 326. *See also* 1996 Op. Va. Att’y Gen. 102, 103.

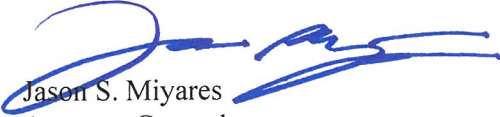
¹⁶ 2010 Op. Va. Att’y Gen. 56, 58.

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place of registration is not determinative of situs unless the vehicle in question weighs 10,000 pounds or less and is normally garaged, docked or parked in another state, but registered in Virginia; the locality in which the vehicle is registered is the tax situs for vehicles meeting these conditions.

With kindest regards, I am,

Very truly yours,


Jason S. Miyares
Attorney General