

June 2, 1959

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ARIZONA ATTORNEY GENERAL

Miss Margarite Harding Webb
Assessor of Gila County
Globe, Arizona

Dear Miss Webb:

This correspondence is in regard to your letter of May 27, 1959, in connection with the W. J. Henson matter.

We would like to emphasize that our letter of May 19, 1959, to the Yavapai County Assessor, Mr. Baldwin, did not attempt to decide which county was entitled to the personal property tax assessed against Mr. Henson, but rather it was intended to set forth legal principles to govern assessors in the assessing and collecting of personal property taxes. To illustrate our point, we quote from our letter of May 19, 1959:

"It is therefore the opinion of the Attorney General that both counties had the power to levy an assessment against W. J. Henson, but only the first assessment is valid, whether it be the home base county where the property is ordinarily kept or in the county where the property was being temporarily used depending on which county first ascertained the amount of the tax due and assessed the tax."

(Emphasis ours)

At the time of our letter to Mr. Baldwin, we were under the impression that the property in question had been in both Gila and Yavapai Counties. We are enclosing a copy of Mr. Baldwin's letter to this office on which we based our assumption. However, in your letter you state, "We question the Yavapai County assessor's right to assess this property at all, since it was not found in Yavapai County any part of this year to date."

If we assume that Yavapai County assessed the property on January 1, but the property at the time of the assessment was located in Gila County, and Gila County assessed the property January 2, then it is our opinion that Gila County has the valid assessment. This is based on A.R.S. § 42-603(B), which provides:

Miss Margarite Harding Webb
Assessor of Gila County

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"Transient property used in business or commerce within the state shall be assessed where found."

However, if the property were in Yavapai County at the time of the assumed assessment (January 1) and was subsequently moved to Gila County where it was assessed on January 2, then Yavapai County would have the valid assessment.

Therefore, it is our opinion that before transient personal property can be validly assessed, it must be in the county at the time the assessment was made and that no earlier assessment was made by some other county in which the property had been located on a prior date.

As to just what were the facts in the W. J. Henson matter, we are unable to say, but this is a problem for either the assessors involved or determination of the courts. If both the assessors involved herein can agree to the facts pertaining to W. J. Henson and the various times involved, we will be very happy to render our opinion as to which county should be entitled to the tax.

If we can be of any further service, please let us know.

Very truly yours,

WADE CHURCH
The Attorney General

FLOYD P. NIETERT
Assistant Attorney General

FFN:ddw

Encl:

cc: Mr. Joel H. Baldwin,
County Assessor
Yavapai County