

1953 O. A. G.

OFFICIAL OPINION NO. 77

September 21, 1953.

Hon. Sam J. Bushemi,
Member of House of Representatives,
3500 Connecticut Avenue,
Gary, Indiana.

Dear Mr. Bushemi:

I have your letter of August 20, 1953 which reads as follows:

“The Lake County Assessor would like an Official Opinion regarding the following facts:

“There is a Motor Trucking Company doing business in Lake County. The motor equipment is housed in a terminal in one township in this county, while the agent who represents the company, lives in another township in this county.

“Will you please give me an Official Opinion as to this question—In what township should the motor equipment and personal property be assessed; in the township where the personal property is housed, or in the township where the agent lives?”

In addition to the matters stated in your letter, I am advised that the trucking company in question is a non-resident corporation and has no principal office in the State of Indiana, but conducts its business from the point where its terminal is located.

Section 11, Chapter 59 of the Acts of 1919, same being Burns' Indiana Statutes Annotated (1951 Repl.), Section 64-405 provides in part:

“All corporate property, including capital stock and franchises, except where some other provision is made by law, shall be assessed to the corporation as to a natural person, in the name of the corporation. The place where its principal office in this state is situated shall be deemed its residence, but if there be no principal office in the state, then such property shall be listed and taxed at any place in the state where the corporation transacts business: * * *.”

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Under the facts outlined, the personal property in question would be listed and taxed in the township where the corporation transacts its business, which is the township wherein is located said terminal. It is also to be noted that the above quoted provision provides that corporate property shall be assessed to the corporation as to a natural person.

Section 10, Chapter 59, of the Acts of 1919, the same being found in Burns' Indiana Statutes Annotated (1951 Repl.), Section 64-404, concerns the assessment of the property of a person and provides in part as follows:

"First. All goods and chattels situated in some township, town or city other than where the owner resides shall be assessed in the township, town or city where situated, and not elsewhere, if the owner or person having control thereof hires or occupies a store, mill, dock-yard, piling ground, place for sale of property, shop, office, mine, farm, place of storage, manufactory or warehouse therein, for use in connection with such goods and chattels: Provided, That the procuring any such property to be manufactured upon contract shall be deemed the hiring of the mill or manufactory, within the meaning of this section.

* * *

"Fourth. Personal property of nonresidents of the state shall be assessed to the owner, or to the person having control thereof, in the township, town or city where the same may be, except that where such property is in transit to some place within the state, it shall be assessed in such place."

Under both the first and fourth paragraphs of the above section said personal property would be taxed in the township where located, that is, the township wherein said terminal is located. We also call your attention to the following cases:

Standard Oil Co. v. Coombs (1884), 96 Ind. 179;

Board of County Comrs. v. Standard Oil Co. (1885),
103 Ind. 302, 2 N. E. 758.

Assuming the facts to be as above set forth, and that there are no other facts which would alter or change the situation,

it is my opinion that the personal property housed in the terminal warehouse on March 1st of any given year is to be assessed in the township wherein said terminal is located. I do not believe that the residence of the agent of the company in another township would affect such assessment of tangible personal property.

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September 22, 1953.

Dr. Margaret E. Morgan,
Commissioner of Mental Health,
Division of Mental Health,
1315 W. 10th Street,
Indianapolis, Indiana.

Dear Dr. Morgan:

Your letter requesting an Official Opinion has been received and reads in part as follows:

“The Division of Mental Health of the State Health Department frequently receives notice from county and city authorities that certain persons, believed to be mentally ill, are held in jail for long periods of time, because no relatives or friends of the persons are available to sign applications for insanity inquests.

* * *

“An official opinion is requested, therefore, in regard to the following questions:

“1. When a person believed to be mentally ill has no known relatives or friends to sign an application for an insanity inquest and the person is being held in jail, who should sign the application?

“2. When a person is believed to be mentally ill and no relative or friend is willing to sign the application, who should sign it?

“3. Does a person who signs such an application, feeling it to be the best interest of the person believed to be mentally ill, risk litigation against himself?