

Cite as 4 WTD 411 (1987)

BEFORE THE INTERPRETATION AND APPEALS DIVISION
DEPARTMENT OF REVENUE
STATE OF WASHINGTON

In the Matter of the Petition)	<u>D</u> <u>E</u> <u>T</u> <u>E</u> <u>R</u> <u>M</u> <u>I</u> <u>N</u> <u>A</u> <u>T</u> <u>I</u>
<u>O</u> <u>N</u>	
For Correction of Personal Property)	
Tax Assessments of)	No. 88-1
)	
)	Re: Watercraft
Valuation	
. . .)	1. . . .
)	2. . . .
)	

BOAT TAX: SITUS -- ALASKA CORPORATION.

A vessel owned by an Alaska corporation is not subject to tax by Washington if it has not acquired a situs separate from the domicile of its owner. The domicile of a corporation is its principal place of business. The principal place of business is determined on a case by case basis.

Headnotes are provided as a convenience for the reader and are not in any way a part of the decision or in any way to be used in construing or interpreting this Determination.

TAXPAYER REPRESENTED BY: . . .

DATE OF HEARING: September 25, 1987

NATURE OF ACTION:

The taxpayer objects to the receipt of property tax statements for the fishing vessel [X] and a skiff on the [X]. The period covered by the statements included 1984, 1985 and 1986.

FACTS:

Potegal, A.L.J. -- The taxpayer is a corporation organized under the laws of the state of Alaska. It has a registered agent in Alaska. During the period in question one of the

officers of the corporation lived in Washington and used his local post office box to accept corporate mail. Otherwise the corporation had no place of business other than the vessel.

In April 1983 the taxpayer purchased the [X] for \$120,000. It was located in [Washington] at the time. There was no skiff on board the [X] at that time or afterward. In May 1983 the [X] left for Alaska to fish. It is home ported [in] Alaska. It remained in Alaska until July 1984 when it returned to [Washington] for repairs. In March 1985 the vessel was leased to a fisherman based in Alaska. When the lease terminated in December 1986 the [X] returned to [Washington] and was put up for sale. It was finally sold in August 1987.

DISCUSSION:

For 1984 and 1985, the first two years involved in this protest, WAC 458-12-255, which has the force and effect of law, provided:

The state of Washington has no jurisdiction to tax ships, vessels, or boats having no situs within the state. Such vessels shall therefore be totally exempt from ad valorem taxation.

The county assessor shall be governed by the following general principles in determining whether a ship or vessel has situs within the state of Washington for taxation purposes:

(1) Situs for taxation of ships and vessels is the domicile of the owner, unless the vessels have acquired situs elsewhere. (Northwestern Lumber Co. v. Chehalis County, 25 Wash. 95 (1901)) The domicile of an individual is his permanent place of residence; the domicile of a corporation is its principal place of business. (AGO 3-25-1931)

(2) Situs for taxation is not controlled by place of home port or port registry. (AGO 2-20-1931)

(3) While the general rule is that situs is controlled by domicile of the owner, ships and vessels may be subject to taxation by a state in which they acquire actual situs. (Guinness v. King County, 32 Wn. 2d 503 (1949)) In order to acquire actual situs in the state of Washington, regardless of the domicile of the owner, a ship or vessel must

be more or less permanently, rather than [than] temporarily, located in this state. (Guiness v. King County, 32 Wn.2d 503 (1949)) If presence within the state is merely for the purpose of taking on and discharging cargo or passengers, or for the need of safety and convenience in conducting business, such vessels have not acquired actual situs. (AGO 2-20-1931) However, where the stay of a vessel is indefinite, and it is maintained in this state to suit the convenience of the owner or to be subjected to protracted local use, actual situs for taxation purposes is acquired. (Guiness v. King County, 32 Wn.2d 503 (1949).)

The rule does not define what the principal place of business of a corporation is. The cases indicate that, absent a statutory definition, courts will make a case by case examination of all the facts to determine what the principal place of business of a corporation is. See 84 C.J.S. Taxation § 329; 71 Am. Jur. 20 State and Local Taxation § 680.

In this case the taxpayer does not have an actual office. The operations of the corporation took place on the vessel. The vessel home ported in [Alaska] was actually in Alaska far more than it was in Washington. The taxpayer is organized under the laws of Alaska and has its registered agent there. For all these reasons we believe that its principal place of business was in Alaska and that it was therefore domiciled there. We further believe that the vessel did not acquire a situs different from that of the domicile of its owner. Thus, under the rule, Washington had no jurisdiction to tax the [X].

Effective January 1, 1986 the Department changed the rules on taxation of ships and vessels. WAC 458-17-100 provided for apportioning the value of fishing vessels subject to tax based on the amount of time spent in Washington. If a fishing vessel was in Washington less than sixty days in a calendar year it would not be subject to tax at all. The [X] was in Washington less than sixty days in 1986. Therefore, under the new rule it was not subject to property tax.

DECISION AND DISPOSITION:

The taxpayer's petition is granted. Tax assessments issued against the [X] and the skiff will be cancelled for the years in question.

DATED this 8th day of January 1988.

