

resident in a stock exchange located in another state;⁴³⁵ (7) stock held by a resident in a foreign corporation that does no business and has no property within the taxing state;⁴³⁶ (8) stock in a foreign corporation owned by another foreign corporation transacting its business within the taxing state;⁴³⁷ (9) shares owned by nonresident shareholders in a domestic corporation, the tax being assessed on the basis of corporate assets and payable by the corporation either out of its general fund or by collection from the shareholder;⁴³⁸ (10) dividends of a corporation distributed ratably among stockholders regardless of their residence outside the state;⁴³⁹ (11) the transfer within the taxing state by one nonresident to another of stock certificates issued by a foreign corporation;⁴⁴⁰ and (12) promissory notes executed by a domestic corporation, although payable to banks in other states.⁴⁴¹

The following personal property taxes on intangibles have been invalidated: (1) debts evidenced by notes in safekeeping within the taxing state, but made and payable and secured by property in a second state and owned by a resident of a third state;⁴⁴² (2) a tax, measured by income, levied on trust certificates held by a resident,

⁴³⁵ *Citizens Nat'l Bank v. Durr*, 257 U.S. 99, 109 (1921). "Double taxation" the Court observed "by one and the same State is not" prohibited "by the Fourteenth Amendment; much less is taxation by two States upon identical or closely related property interest falling within the jurisdiction of both, forbidden."

⁴³⁶ *Hawley v. Malden*, 232 U.S. 1, 12 (1914). The Court attached no importance to the fact that the shares were already taxed by the State in which the issuing corporation was domiciled and might also be taxed by the State in which the stock owner was domiciled, or at any rate did not find it necessary to pass upon the validity of the latter two taxes. The present levy was deemed to be tenable on the basis of the benefit-protection theory, namely, "the economic advantages realized through the protection at the place . . . [of business situs] of the ownership of rights in intangibles. . . ." The Court also added that "undoubtedly the State in which a corporation is organized may . . . [tax] all of its shares whether owned by residents or nonresidents."

⁴³⁷ *First Bank Corp. v. Minnesota*, 301 U.S. 234, 241 (1937). The shares represent an aliquot portion of the whole corporate assets, and the property right so represented arises where the corporation has its home, and is therefore within the taxing jurisdiction of the State, notwithstanding that ownership of the stock may also be a taxable subject in another State.

⁴³⁸ *Schuylkill Trust Co. v. Pennsylvania*, 302 U.S. 506 (1938).

⁴³⁹ The Court found that all stockholders were the ultimate beneficiaries of the corporation's activities within the taxing State, were protected by the latter, and were thus subject to the State's jurisdiction. *International Harvester Co. v. Department of Taxation*, 322 U.S. 435 (1944). This tax, though collected by the corporation, is on the transfer to a stockholder of his share of corporate dividends within the taxing State and is deducted from said dividend payments. *Wisconsin Gas Co. v. United States*, 322 U.S. 526 (1944).

⁴⁴⁰ *New York ex rel. Hatch v. Reardon*, 204 U.S. 152 (1907).

⁴⁴¹ *Graniteville Mfg. Co. v. Query*, 283 U.S. 376 (1931). These taxes, however, were deemed to have been laid, not on the property, but upon an event, the transfer in one instance, and execution in the latter which took place in the taxing State.

⁴⁴² *Buck v. Beach*, 206 U.S. 392 (1907).