fer taxes to gifts or bequests of nonresidents; 3) allocation of the income of multi-jurisdictional entities for tax purposes; 4) the scope of state authority to tax income of nonresidents; and 5) collection of state use taxes.

The Court's opinions in these cases have often discussed due process and dormant commerce clause issues as if they were indistinguishable.[414] A later decision, *Quill Corp. v. North Dakota*,[415] however, used a two-tier analysis that found sufficient contact to satisfy due process but not dormant commerce clause requirements. In *Quill*,[416] the Court struck down a state statute requiring an out-of-state mail order company with neither outlets nor sales representatives in the state to collect and transmit use taxes on sales to state residents, but did so based on Commerce Clause rather than due process grounds. Taxation of an interstate business does not offend due process, the Court held, if that business "purposefully avails itself of the benefits of an economic market in the [taxing] State . . . even if it has no physical presence in the State."[417] Thus, *Quill* may be read as implying that the more stringent Commerce Clause standard subsumes due process jurisdictional issues, and that consequently these due process issues need no longer be separately considered.[418] This interpretation has yet to be confirmed, however, and a detailed review of due process precedents may prove useful.

Real Property.—Even prior to the ratification of the Fourteenth Amendment, it was a settled principle that a state could not tax land situated beyond its limits. Subsequently elaborating upon that principle, the Court has said that, "we know of no case where

[414] For discussion of the relationship between the taxation of interstate commerce and the dormant commerce clause, *see* Taxation, *supra*.

[415] 504 U.S. 298 (1992).

[416] 504 U.S. 298 (1992).

[417] The Court had previously held that the requirement in terms of a benefit is minimal. Commonwealth Edison Co. v. Montana, 453 U.S. 609 (1981), (quoting Carmichael v. Southern Coal & Coke Co., 301 U.S. 495, 521–23 (1937)). It is satisfied by a "minimal connection" between the interstate activities and the taxing State and a rational relationship between the income attributed to the State and the intrastate values of the enterprise. Mobil Oil Corp. v. Commissioner of Taxes, 445 U.S. 425, 436–37 (1980); Moorman Mfg. Co. v. Bair, 437 U.S. 267, 272–73 (1978). *See especially* Standard Pressed Steel Co. v. Department of Revenue, 419 U.S. 560, 562 (1975); National Geographic Soc'y v. California Bd. of Equalization, 430 U.S. 551 (1977).

[418] A physical presence within the state is necessary, however, under the Commerce Clause analysis applicable to taxation of mail order sales. *See* Quill Corp. v. North Dakota, 504 U.S. at 309–19 (refusing to overrule the Commerce Clause ruling in National Bellas Hess, Inc. v. Department of Revenue, 386 U.S. 753, 756 (1967)). *See also* Trinova Corp. v. Michigan Dep't of Treasury, 498 U.S. 358 (1991) (neither the Commerce Clause nor the Due Process Clause is violated by application of a business tax, measured on a value added basis, to a company that manufactures goods in another state, but that operates a sales office and conducts sales within state).