

sources,⁵²⁸ a tax on foreign-built but not upon domestic yachts,⁵²⁹ a tax on employers of eight or more persons, with exemptions for agricultural labor and domestic service,⁵³⁰ a gift tax law embodying a plan of graduations and exemptions under which donors of the same amount might be liable for different sums,⁵³¹ an Alaska statute imposing license taxes only on nonresident fisherman,⁵³² an act that taxed the manufacture of oil and fertilizer from herring at a higher rate than similar processing of other fish or fish offal,⁵³³ an excess profits tax that defined “invested capital” with reference to the original cost of the property rather than to its present value,⁵³⁴ an undistributed profits tax in the computation of which special credits were allowed to certain taxpayers,⁵³⁵ an estate tax upon the estate of a deceased spouse in respect of the moiety of the surviving spouse where the effect of the dissolution of the community is to enhance the value of the survivor’s moiety,⁵³⁶ and a tax on nonprofit mutual insurers, even though such insurers organized before a certain date were exempt, as there was a rational basis for the discrimination.⁵³⁷

Retroactive Taxes.—It has been customary from the beginning for Congress to give some retroactive effect to its tax laws, usually making them effective from the beginning of the tax year or from the date of introduction of the bill that became the law.⁵³⁸ Application of an income tax statute to the entire calendar year in which enactment took place has never, barring some peculiar circumstance, been deemed to deny due process.⁵³⁹ “Taxation is neither a penalty imposed on the taxpayer nor a liability which he assumes by contract. It is but a way of apportioning the cost of government among those who in some measure are privileged to

⁵²⁸ *National Paper Co. v. Bowers*, 266 U.S. 373 (1924).

⁵²⁹ *Billings v. United States*, 232 U.S. 261, 282 (1914).

⁵³⁰ *Steward Machine Co. v. Davis*, 301 U.S. 548 (1937); *Helvering v. Davis*, 301 U.S. 619 (1937).

⁵³¹ *Bromley v. McCaughn*, 280 U.S. 124 (1929).

⁵³² *Haavik v. Alaska Packers Ass’n*, 263 U.S. 510 (1924).

⁵³³ *Alaska Fish Co. v. Smith*, 255 U.S. 44 (1921).

⁵³⁴ *LaBelle Iron Works v. United States*, 256 U.S. 377 (1921).

⁵³⁵ *Helvering v. Northwest Steel Mills*, 311 U.S. 46 (1940).

⁵³⁶ *Fernandez v. Wiener*, 326 U.S. 340 (1945); *cf.* *Coolidge v. Long*, 282 U.S. 582 (1931).

⁵³⁷ *United States v. Maryland Savings-Share Ins. Corp.*, 400 U.S. 4 (1970) (per curiam).

⁵³⁸ *United States v. Darusmont*, 449 U.S. 292, 296–97 (1981).

⁵³⁹ *Stockdale v. Insurance Companies*, 87 U.S. (20 Wall.) 323, 331, 332 (1874); *Brushaber v. Union Pac. R.R.*, 240 U.S. 1, 20 (1916); *Cooper v. United States*, 280 U.S. 409, 411 (1930); *Milliken v. United States*, 283 U.S. 15, 21 (1931); *Reinecke v. Smith*, 289 U.S. 172, 175 (1933); *United States v. Hudson*, 299 U.S. 498, 500–01 (1937); *Welch v. Henry*, 305 U.S. 134, 146, 148–50 (1938); *Fernandez v. Wiener*, 326 U.S. 340, 355 (1945); *United States v. Darusmont*, 449 U.S. 292, 297 (1981).