

class.¹⁴⁷⁷ Also, discriminations of an unusual character are scrutinized with special care.¹⁴⁷⁸ A gross sales tax graduated at increasing rates with the volume of sales,¹⁴⁷⁹ a heavier license tax on each unit in a chain of stores where the owner has stores located in more than one country,¹⁴⁸⁰ and a gross receipts tax levied on corporations operating taxicabs, but not on individuals,¹⁴⁸¹ have been held to be a repugnant to the Equal Protection Clause. But it is not the function of the Court to consider the propriety or justness of the tax, to seek for the motives and criticize the public policy which prompted the adoption of the statute.¹⁴⁸² If the evident intent and general operation of the tax legislation is to adjust the burden with a fair and reasonable degree of equality, the constitutional requirement is satisfied.¹⁴⁸³

One not within the class claimed to be discriminated against cannot challenge the constitutionality of a statute on the ground that it denies equal protection of the law.¹⁴⁸⁴ If a tax applies to a class that may be separately taxed, those within the class may not complain because the class might have been more aptly defined or because others, not of the class, are taxed improperly.¹⁴⁸⁵

Foreign Corporations and Nonresidents.—The Equal Protection Clause does not require identical taxes upon all foreign and domestic corporations in every case.¹⁴⁸⁶ In 1886, a Pennsylvania corporation previously licensed to do business in New York challenged an increased annual license tax imposed by that state in retaliation for a like tax levied by Pennsylvania against New York corporations. This tax was held valid on the ground that the state, having power to exclude entirely, could change the conditions of admission for the future and could demand the payment of a new or further tax as a license fee.¹⁴⁸⁷ Later cases whittled down this rule considerably. The Court decided that “after its admission, the foreign corporation stands equal and is to be classified with domestic corpora-

¹⁴⁷⁷ *Giozza v. Tiernan*, 148 U.S. 657, 662 (1893).

¹⁴⁷⁸ *Louisville Gas Co. v. Coleman*, 227 U.S. 32, 37 (1928). *See also* *Bell's Gap R.R. v. Pennsylvania*, 134 U.S. 232, 237 (1890).

¹⁴⁷⁹ *Stewart Dry Goods Co. v. Lewis*, 294 U.S. 550 (1935). *See also* *Valentine v. Great Atlantic & Pacific Tea Co.*, 299 U.S. 32 (1936).

¹⁴⁸⁰ *Louis K. Liggett Co. v. Lee*, 288 U.S. 517 (1933).

¹⁴⁸¹ *Quaker City Cab Co. v. Pennsylvania*, 277 U.S. 389 (1928). This case was formally overruled in *Lehnhausen v. Lake Shore Auto Parts Co.*, 410 U.S. 356 (1973).

¹⁴⁸² *Tax Comm'rs v. Jackson*, 283 U.S. 527, 537 (1931).

¹⁴⁸³ *Colgate v. Harvey*, 296 U.S. 404, 422 (1935).

¹⁴⁸⁴ *Darnell v. Indiana*, 226 U.S. 390, 398 (1912); *Farmers Bank v. Minnesota*, 232 U.S. 516, 531 (1914).

¹⁴⁸⁵ *Morf v. Bingaman*, 298 U.S. 407, 413 (1936).

¹⁴⁸⁶ *Baltic Mining Co. v. Massachusetts*, 231 U.S. 68, 88 (1913). *See also* *Cheney Brothers Co. v. Massachusetts*, 246 U.S. 147, 157 (1918).

¹⁴⁸⁷ *Philadelphia Fire Ass'n v. New York*, 119 U.S. 110, 119 (1886).