Commerce Clause.[1123] In *Armco, Inc. v. Hardesty*,[1124] the Court voided as discriminatory the imposition on an out-of-state wholesaler of a state tax that was levied on manufacturing and wholesaling but that relieved manufacturers subject to the manufacturing tax of liability for paying the wholesaling tax. Even though the former tax was higher than the latter, the Court found that the imposition discriminated against the interstate wholesaler.[1125] A state excise tax on wholesale liquor sales, which exempted sales of specified local products, was held to violate the Commerce Clause.[1126] A state statute that granted a tax credit for ethanol fuel if the ethanol was produced in the state, or if it was produced in another state that granted a similar credit to the state's ethanol fuel, was found discriminatory in violation of the clause.[1127]

Expanding, although neither unexpectedly nor exceptionally, its dormant commerce jurisprudence, the Court in *Camps Newfound/Owatonna, Inc. v. Town of Harrison* [1128] applied its nondiscrimination element of the doctrine to invalidate the state's charitable property tax exemption statute, which applied to nonprofit firms performing benevolent and charitable functions, but which excluded entities serving primarily out-of-state residents. The claimant here operated a church camp for children, most of whom resided out of state. The discriminatory tax would easily have fallen had it been applied to profit-making firms, and the Court saw no reason to make an exception for nonprofits. The tax scheme was designed to encourage entities

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[1123] Maryland v. Louisiana, 451 U.S. 725, 753–760 (1981). *But see* Commonwealth Edison Co. v. Montana, 453 U.S. 609, 617–619 (1981). *See also* Oregon Waste Systems, Inc. v. Department of Environmental Quality, 511 U.S. 93 (1994) (surcharge on in-state disposal of solid wastes that discriminates against companies disposing of waste generated in other states invalid).

[1124] 467 U.S. 638 (1984).

[1125] The Court applied the "internal consistency" test here, too, in order to determine the existence of discrimination. 467 U.S. at 644–45. Thus the wholesaler did not have to demonstrate it had paid a like tax to another state, only that if other states imposed like taxes it would be subject to discriminatory taxation. *See also* Tyler Pipe Industries v. Dept. of Revenue, 483 U.S. 232 (1987); American Trucking Ass'ns, Inc. v. Scheiner, 483 U.S. 266 (1987); Amerada Hess Corp. v. Director, New Jersey Taxation Div., 490 U.S. 66 (1989); Kraft Gen. Foods v. Iowa Dep't of Revenue, 505 U.S. 71 (1992).

[1126] Bacchus Imports, Ltd. v. Dias, 468 U.S. 263 (1984).

[1127] New Energy Co. of Indiana v. Limbach, 486 U.S. 269 (1988). *Compare* Fulton Corp. v. Faulkner, 516 U.S. 325 (1996) (state intangibles tax on a fraction of the value of corporate stock owned by in-state residents inversely proportional to the corporation's exposure to the state income tax violated dormant commerce clause), *with* General Motors Corp. v. Tracy, 519 U.S. 278 (1997) (state imposition of sales and use tax on all sales of natural gas except sales by regulated public utilities, all of which were in-state companies, but covering all other sellers that were out-of-state companies did not violate dormant commerce clause because regulated and unregulated companies were not similarly situated).

[1128] 520 U.S. 564 (1997). The decision was 5-to-4 with a strong dissent by Justice Scalia, id. at 595, and a philosophical departure by Justice Thomas. Id. at 609.