

on certain trust lands (based on liens for unpaid water charges) because their own bookkeeper failed to inform them of the receipt of mailed notices.⁵²⁷

Sufficiency of Remedy.—When no other remedy is available, due process is denied by a judgment of a state court withholding a decree in equity to enjoin collection of a discriminatory tax.⁵²⁸ Requirements of due process are similarly violated by a statute that limits a taxpayer's right to challenge an assessment to cases of fraud or corruption,⁵²⁹ and by a state tribunal that prevents the recovery of taxes imposed in violation of the Constitution and laws of the United States by invoking a state law that allows suits to recover taxes alleged to have been assessed illegally only if the taxes had been paid at the time and in the manner provided by such law.⁵³⁰ In the case of a tax held unconstitutional as a discrimination against interstate commerce and not invalidated in its entirety, the state has several alternatives for equalizing incidence of the tax: it may pay a refund equal to the difference between the tax paid and the tax that would have been due under rates afforded to in-state competitors; it may assess and collect back taxes from those competitors; or it may combine the two approaches.⁵³¹

Laches.—Persons failing to avail themselves of an opportunity to object and be heard cannot thereafter complain of assessments as arbitrary and unconstitutional.⁵³² Likewise a car company that failed to report its gross receipts, as required by statute, has no

⁵²⁷ *Nelson v. New York City*, 352 U.S. 103 (1956). This conclusion was unaffected by the disparity between the value of the land taken and the amount owed the city. Having issued appropriate notices, the city cannot be held responsible for the negligence of the bookkeeper and the managing trustee in overlooking arrearages on tax bills, nor is it obligated to inquire why appellants regularly paid real estate taxes on their property.

⁵²⁸ *Brinkerhoff-Faris Co. v. Hill*, 281 U.S. 673 (1930).

⁵²⁹ *Central of Georgia Ry. v. Wright*, 207 U.S. 127 (1907).

⁵³⁰ *Carpenter v. Shaw*, 280 U.S. 363 (1930). See also *Ward v. Love County*, 253 U.S. 17 (1920). In this as in other areas, the state must provide procedural safeguards against imposition of an unconstitutional tax. These procedures need not apply *predeprivation*, but a state that denies *predeprivation* remedy by requiring that tax payments be made before objections are heard must provide a *postdeprivation* remedy. *McKesson Corp. v. Florida Alcohol & Tobacco Div.*, 496 U.S. 18 (1990). See also *Reich v. Collins*, 513 U.S. 106 (1994) (violation of due process to hold out a post-deprivation remedy for unconstitutional taxation and then, after the disputed taxes had been paid, to declare that no such remedy exists); *Newsweek, Inc. v. Florida Dep't of Revenue*, 522 U.S. 442 (1998) (*per curiam*) (violation of due process to limit remedy to one who pursued pre-payment of tax, where litigant reasonably relied on apparent availability of post-payment remedy).

⁵³¹ *Carpenter v. Shaw*, 280 U.S. 363 (1930).

⁵³² *Farncomb v. Denver*, 252 U.S. 7 (1920).