flat taxes imposed for the use of the state's roads, were voided, under the internal consistency test, because if every state imposed them, the burden on interstate commerce would be great.[1118]

Deference to state taxing authority was evident in a case in which the Court sustained a state sales tax on the price of a bus ticket for travel that originated in the state but terminated in another state. The tax was unapportioned to reflect the intrastate travel and the interstate travel.[1119] The tax in this case was different from the tax upheld in *Central Greyhound*, the Court held. The previous tax constituted a levy on gross receipts, payable by the seller, whereas the present tax was a sales tax, also assessed on gross receipts, but payable by the buyer. The Oklahoma tax, the Court continued, was internally consistent, because if every state imposed a tax on ticket sales within the state for travel originating there, no sale would be subject to more than one tax. The tax was also externally consistent, the Court held, because it was a tax on the sale of a service that took place in the state, not a tax on the travel.[1120] However, the Court has found discriminatory and thus invalid a state intangibles tax on a fraction of the value of corporate stock owned by state residents inversely proportional to the corporation's exposure to the state income tax.[1121]

Discrimination.—The "fundamental principle" governing this factor is simple. "'No State may, consistent with the Commerce Clause, impose a tax which discriminates against interstate commerce . . . by providing a direct commercial advantage to local business.'"[1122] That is, a tax that by its terms or operation imposes greater burdens on out-of-state goods or activities than on competing in-state goods or activities will be struck down as discriminatory under the

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[1118] American Trucking Ass'ns v. Scheiner, 483 U.S. 266 (1987).

[1119] Indeed, there seemed to be a precedent squarely on point: Central Greyhound Lines v. Mealey, 334 U.S. 653 (1948). The Court in that case struck down a state statute that failed to apportion its taxation of interstate bus ticket sales to reflect the distance traveled within the state.

[1120] Oklahoma Tax Comm'n v. Jefferson Lines, Inc., 514 U.S. 175 (1995). Indeed, the Court analogized the tax to that in Goldberg v. Sweet, 488 U.S. 252 (1989), a tax on interstate telephone services that originated in or terminated in the state and that were billed to an in-state address.

[1121] Fulton Corp. v. Faulkner, 516 U.S. 325 (1996). The state had defended on the basis that the tax was a "compensatory" one designed to make interstate commerce bear a burden already borne by intrastate commerce. The Court recognized the legitimacy of the defense, but it found the tax to meet none of the three criteria for classification as a valid compensatory tax. Id. at 333–44. *See also* South Central Bell Tel. Co. v. Alabama, 526 U.S. 160 (1999) (tax not justified as compensatory).

[1122] Boston Stock Exchange v. State Tax Comm'n, 429 U.S. 318, 329 (1977) (quoting Northwestern States Portland Cement Co. v. Minnesota, 358 U.S. 450, 457 (1959)). The principle, as we have observed above, is a long-standing one under the Commerce Clause. *E.g.*, Welton v. Missouri, 91 U.S. 275 (1876).