

to favor certain industries or forms of industry¹⁴⁷² and may tax different types of taxpayers differently, despite the fact that they compete.¹⁴⁷³ It does not follow, however, that because “some degree of inequality from the nature of things must be permitted, gross inequality must also be allowed.”¹⁴⁷⁴ Classification may not be arbitrary. It must be based on a real and substantial difference¹⁴⁷⁵ and the difference need not be great or conspicuous,¹⁴⁷⁶ but there must be no discrimination in favor of one as against another of the same

Public utilities: a gross receipts tax at a higher rate for railroads than for other public utilities, *Ohio Tax Cases*, 232 U.S. 576 (1914); a gasoline storage tax which places a heavier burden upon railroads than upon common carriers by bus, *Nashville C. & St. L. Ry. v. Wallace*, 288 U.S. 249 (1933); a tax on railroads measured by gross earnings from local operations, as applied to a railroad which received a larger net income than others from the local activity of renting, and borrowing cars, *Illinois Cent. R.R. v. Minnesota*, 309 U.S. 157 (1940); a gross receipts tax applicable only to public utilities, including carriers, the proceeds of which are used for relieving the unemployed, *New York Rapid Transit Corp. v. New York*, 303 U.S. 573 (1938).

Wine: exemption of wine from grapes grown in the State while in the hands of the producer, *Cox v. Texas*, 202 U.S. 446 (1906).

Laws imposing miscellaneous license fees have been upheld as follows:

Cigarette dealers: taxing retailers and not wholesalers. *Cook v. Marshall County*, 196 U.S. 261 (1905).

Commission merchants: requirements that dealers in farm products on commission procure a license, *Payne v. Kansas*, 248 U.S. 112 (1918).

Elevators and warehouses: license limited to certain elevators and warehouses on right-of-way of railroad, *Cargill Co. v. Minnesota*, 180 U.S. 452 (1901); a license tax applicable only to commercial warehouses where no other commercial warehousing facilities in township subject to tax, *Independent Warehouses v. Scheele*, 331 U.S. 70 (1947).

Laundries: exemption from license tax of steam laundries and women engaged in the laundry business where not more than two women are employed. *Quong Wing v. Kirkendall*, 223 U.S. 59 (1912).

Merchants: exemption from license tax measured by amount of purchases, of manufacturers within the state selling their own product. *Armour & Co. v. Virginia*, 246 U.S. 1 (1918).

Sugar refineries: exemption from license applicable to refiners of sugar and molasses of planters and farmers grinding and refining their own sugar and molasses. *American Sugar Refining Co. v. Louisiana*, 179 U.S. 89 (1900).

Theaters: license graded according to price of admission. *Metropolis Theatre Co. v. Chicago*, 228 U.S. 61 (1913).

Wholesalers of oil: occupation tax on wholesalers in oil not applicable to wholesalers in other products. *Southwestern Oil Co. v. Texas*, 217 U.S. 114 (1910).

¹⁴⁷² *Quong Wing v. Kirkendall*, 223 U.S. 59, 62 (1912). See also *Hammond Packing Co. v. Montana*, 233 U.S. 331 (1914); *Allied Stores of Ohio v. Bowers*, 358 U.S. 522 (1959); *Fitzgerald v. Racing Ass'n of Central Iowa*, 539 U.S. 103 (2003).

¹⁴⁷³ *Puget Sound Co. v. Seattle*, 291 U.S. 619, 625 (1934). See *City of Pittsburgh v. Alco Parking Corp.*, 417 U.S. 369 (1974).

¹⁴⁷⁴ *Colgate v. Harvey*, 296 U.S. 404, 422 (1935).

¹⁴⁷⁵ *Southern Ry. v. Greene*, 216 U.S. 400, 417 (1910); *Quaker City Cab Co. v. Pennsylvania*, 277 U.S. 389, 400 (1928).

¹⁴⁷⁶ *Keeney v. New York*, 222 U.S. 525, 536 (1912); *Tax Comm'rs v. Jackson*, 283 U.S. 527, 538 (1931).