a legislature has assumed to impose a tax upon land within the jurisdiction of another State, much less where such action has been defended by a court."[419] Insofar as a tax payment may be viewed as an exaction for the maintenance of government in consideration of protection afforded, the logic sustaining this rule is self-evident.

Tangible Personalty.—A state may tax tangible property located within its borders (either directly through an *ad valorem* tax or indirectly through death taxes) irrespective of the residence of the owner.[420] By the same token, if tangible personal property makes only occasional incursions into other states, its permanent situs remains in the state of origin, and, subject to certain exceptions, is taxable only by the latter.[421] The ancient maxim, *mobilia sequuntur personam*, which originated when personal property consisted in the main of articles appertaining to the person of the owner, yielded in modern times to the "law of the place where the property is kept and used." The tendency has been to treat tangible personal property as "having a situs of its own for the purpose of taxation, and correlatively to . . . exempt [it] at the domicile of its owner."[422]

Thus, when rolling stock is permanently located and used in a business outside the boundaries of a domiciliary state, the latter has no jurisdiction to tax it.[423] Further, vessels that merely touch briefly at numerous ports never acquire a taxable situs at any one of them, and are taxable in the domicile of their owners or not at

---

[419] Union Transit Co. v. Kentucky, 199 U.S. 194, 204 (1905). *See also* Louisville & Jeffersonville Ferry Co. v. Kentucky, 188 U.S. 385 (1903).

[420] Carstairs v. Cochran, 193 U.S. 10 (1904); Hannis Distilling Co. v. Baltimore, 216 U.S. 285 (1910); Frick v. Pennsylvania, 268 U.S. 473 (1925); Blodgett v. Silberman, 277 U.S. 1 (1928).

[421] New York ex rel. New York Cent. R.R. v. Miller, 202 U.S. 584 (1906).

[422] Wheeling Steel Corp. v. Fox, 298 U.S. 193, 209–10 (1936); Union Transit Co. v. Kentucky, 199 U.S. 194, 207 (1905); Johnson Oil Co. v. Oklahoma, 290 U.S. 158 (1933).

[423] Union Transit Co. v. Kentucky, 199 U.S. 194 (1905). Justice Black, in Central R.R. v. Pennsylvania, 370 U.S. 607, 619–20 (1962), had his "doubts about the use of the Due Process Clause to strike down state tax laws. The modern use of due process to invalidate state taxes rests on two doctrines: (1) that a State is without 'jurisdiction to tax' property beyond its boundaries, and (2) that multiple taxation of the same property by different States is prohibited. Nothing in the language or the history of the Fourteenth Amendment, however, indicates any intention to establish either of these two doctrines. . . . And in the first case [Railroad Co. v. Jackson, 74 U.S. (7 Wall.) 262 (1869)] striking down a state tax for lack of jurisdiction to tax after the passage of that Amendment neither the Amendment nor its Due Process Clause . . . was even mentioned." He also maintained that Justice Holmes shared this view in Union Transit Co. v. Kentucky, 199 U.S. at 211.