

commerce, while the Equal Protection Clause merely requires a rational relation to a valid state purpose.¹⁴⁹⁵ However, the Court's holding that the discriminatory purpose was invalid under equal protection analysis would also be a basis for invalidation under a different strand of Commerce Clause analysis.¹⁴⁹⁶

Income Taxes.—A state law that taxes the entire income of domestic corporations that do business in the state, including that derived within the state, while exempting entirely the income received outside the state by domestic corporations that do no local business, is arbitrary and invalid.¹⁴⁹⁷ In taxing the income of a non-resident, there is no denial of equal protection in limiting the deduction of losses to those sustained within the state, although residents are permitted to deduct all losses, wherever incurred.¹⁴⁹⁸ A retroactive statute imposing a graduated tax at rates different from those in the general income tax law, on dividends received in a prior year that were deductible from gross income under the law in effect when they were received, does not violate the Equal Protection Clause.¹⁴⁹⁹

Inheritance Taxes.—There is no denial of equal protection in prescribing different treatment for lineal relations, collateral kindred and unrelated persons, or in increasing the proportionate burden of the tax progressively as the amount of the benefit increases.¹⁵⁰⁰ A tax on life estates where the remainder passes to lineal heirs is valid despite the exemption of life estates where the remainder passes to collateral heirs.¹⁵⁰¹ There is no arbitrary classification in taxing the transmission of property to a brother or sister, while exempting that to a son-in-law or daughter-in-law.¹⁵⁰² Vested and contingent remainders may be treated differently.¹⁵⁰³ The exemption of property bequeathed to charitable or educational insti-

¹⁴⁹⁵ 470 U.S. at 880.

¹⁴⁹⁶ The first level of the Court's "two-tiered" analysis of state statutes affecting commerce tests for virtual *per se* invalidity. "When a state statute directly regulates or discriminates against interstate commerce, or when its effect is to favor in-state economic interests over out-of-state interests, we have generally struck down the statute without further inquiry." *Brown-Forman Distillers Corp. v. New York State Liquor Auth.*, 476 U.S. 573, 579 (1986).

¹⁴⁹⁷ *F.S. Royster Guano Co. v. Virginia*, 253 U.S. 412 (1920). *See also* *Walters v. City of St. Louis*, 347 U.S. 231 (1954), sustaining a municipal income tax imposed on gross wages of employed persons but only on net profits of the self-employed, of corporations, and of business enterprises.

¹⁴⁹⁸ *Shaffer v. Carter*, 252 U.S. 37, 56, 57 (1920); *Travis v. Yale & Towne Mfg. Co.*, 252 U.S. 60, 75, 76 (1920).

¹⁴⁹⁹ *Welch v. Henry*, 305 U.S. 134 (1938).

¹⁵⁰⁰ *Magoun v. Illinois Trust & Savings Bank*, 170 U.S. 283, 288, 300 (1898).

¹⁵⁰¹ *Billings v. Illinois*, 188 U.S. 97 (1903).

¹⁵⁰² *Campbell v. California*, 200 U.S. 87 (1906).

¹⁵⁰³ *Salomon v. State Tax Comm'n*, 278 U.S. 484 (1929).