

INDEX—CONSUMPTION TAXES

Adams Mfg. Co. v. Storen, 486, 487, 488, 491, 492.

ADMINISTRATION OF CONSUMERS' TAXES

importance of efficient field audit program to productivity of consumption taxes, 436; cost of, compares favorably with that of other taxes, 442-43; regressiveness of consumers' taxes affected by, 447; unimportance of cost of, under scheme for use of consumption taxes for economic control, 462; collection of use taxes by out-of-state sellers, 497-98; evaluation of legal devices available for collection and enforcement of consumption taxes, 507-12; correlation between auditing and tax collections, 513-14; use of analysis of past audits and returns in, 515; effect of exemptions and high rates on, 515-17; evaluation of tax stamps as a method of, 517-18; advancement of, through discounts to vendors, promulgation of rules, use of tokens, redemption of tax stamps, 518-21; discounts to vendors deemed excessive, 578; administration of exemptions and refunds, 611-12; municipal tax administration, 621-23; preservation of advantages of local tax administration under state or nation-wide levies, 624; evasion and avoidance under federal admissions taxes, 630; credit and refund administration under federal manufacturers' excises, 647-48.

ALLOCATION OF CONSUMPTION TAX REVENUES

origin of practice of, 464; methods of, outlined and evaluated, 465-68; extent of, by geographical sections of the country, 468-70; federal collection of consumers' taxes, with allocation to states, a possibility in future, 493, 624.

Bedford v. Hartman, 588.

Bigsby v. Johnson, 539.

Bingaman v. Golden Eagle Western Lines, 601.

Boeing Airplane Co. v. Comm. of Revenue and Taxation, 609.

Boyer-Campbell Co. v. Fry, 549, 588.

BUCK ACT

nature and scope of, 607.

Burgess v. Ames, 534.

City of Webster Groves v. Smith, 590.

Colorado National Bank v. Bedford, 488, 606.

CONSUMPTION TAXES

five characteristics of, 419-21; definition of, 421-22, 457, 626; classification bases for, 422-23; development of, 424-26; present status of, in tax systems of world, 426-29; reliance upon, by U. S. Government, 431-32, 625; recent resort to, by American states, 432-35, 463-64; great productivity of, 435-38, 651; equity of, against charge of regressiveness, 438-42; likely future of, 442, 444; regressive feature of, generally not great, 448; effects of, on business where levied for economic control, 449-50, 454-55; effects of, where levied for fiscal

purposes, 451-54; use of, for economic control, 457-62; argument for limitation of, to effectuation of economic rather than fiscal ends, 462; allocation, earmarking and diversion of revenues from, 463-81; jurisdictional and commerce clause problems in imposition of, 482-505, 619-21; collection and enforcement of, 506-21; administrative and judicial definition of taxable transaction in, 522-60; measures used in computing, 562-78; exemptions from: by commodities and transactions, 579-93, by types of consumers, 594-612; reasons for municipal adoption of, 613; special problems of cities with, 614-24; federal experience with, 625-51; availability of, for both fiscal and regulatory ends, 651.

See also FEDERAL CONSUMPTION TAXES; GASOLINE TAXATION; MUNICIPAL CONSUMPTION TAXES; SALES TAXES; USE TAXES.

Continental Supply Co. v. People, 590.

Curry v. Reeves, 581.

DIVERSION OF CONSUMPTION TAX REVENUES

as an outgrowth of earmarking, 475; when cry against, unwarranted, 475; extent of, in case of gasoline tax, in general and by areas, 476-78; constitutional amendments against, 478; attack on, via general constitutional doctrine, 478-80; national resistance to, through Congressional enactment of Hayden-Cartwright Act, 480-81; tendency for, to stabilize, 481; alluded to, 598.

See also EARMARKING OF CONSUMPTION TAX REVENUES.

Dravo Contracting Co. v. James, 492.

Dun and Bradstreet v. City of New York, 536.

EARMARKING OF CONSUMPTION TAX REVENUES

origin of the practice of, and relation to revenue allocation, 471-72; rise of, after World War I, 472; analogy between, and special assessments, 473; difficulties and evils of, 474; diversion problem a consequence of, 475; justification of, under certain circumstances, 481.

See also DIVERSION OF CONSUMPTION TAX REVENUES.

Eastern Air Transport v. South Carolina Tax Comm., 484.

EXEMPTIONS: EXPRESS AND IMPLIED

effect of, on collection and enforcement, 515-16; constitutionality of, unquestioned, 579; of commodities and transactions under general sales and use taxes: on basis of administrative expediency, 580-82, to mitigate regressive effects, 582-84, in order to avoid horizontal or vertical multiple taxation, 584-87, as result of political pressures, 587-91; of commodities and transactions under selective sales and use taxes, 591-93; exclusions based on types of consumers: gasoline user, 595-98, other

legislative consumer exemptions, 598-600, diplomatic and consular immunity, 600-01, uses by instrumentalities of interstate commerce, 601-02, governmental instrumentalities, 603-06, 610, post exchanges, 607-08, cost-plus contractors, 608-10; administration of exemptions and refunds, 611-12; under federal admissions taxes, 627-28, 629-30; of subsequent sales under federal manufacturers' excises, 647-49.

FEDERAL CONSUMPTION TAXES

on admissions, 626-30; on dues and fees, 630-33; on playing cards and safe deposit boxes, 634; on tobacco, snuff, cigars, cigarettes, 634-35; on oleomargarine, 635; on narcotics, 636-37; on white phosphorus matches, 637; on liquor, 637-38; on tires and inner tubes, 639; on toilet preparations, 639-41; on parts and accessories, automobile and truck bodies, etc., 641-42; on radio sets, 643; on refrigerators, firearms, ammunition, matches, 643-44; on electrical energy, 644-45; on gasoline and lubricating oil, 645-46; on communication facilities, 649-50; on bituminous coal, 650-51.

GASOLINE TAXATION

definition of, as form of consumption tax, 421; data on effect of, on consumption, 453-54; productivity of, 463, 470; earmarking of revenues from: development of, 472-73, evaluation of, 473-74; diversion of revenues from: extent, 476-77, constitutional amendments against, 477, legislative and judicial limitations on, 478-81; exemptions from, for non-highway purposes: extent, 595-96, amounts and types of non-highway uses, 596, limitations on, 596-97, basis of, 597-98; refund system for administering exceptions to, 611-12; federal, 645.

Graves v. O'Keefe, 603.

Graves v. Texas Co., 604, 605, 606.

Graybar Electric Co. v. Curry, 492.

Gregg Dyeing Co. v. Query, 484, 494.

Gwinn White & Prince, Inc. v. Henneford, 486, 491.

HAYDEN-CARTWRIGHT ACT

enactment of, to resist diversion of gasoline tax revenues, 480; criticism of state penalization under, 481.

Helson v. Kentucky, 495, 496, 601.

Henneford v. Silas Mason Co., 485.

Howitt v. Street & Smith Publications, 536, 537.

INCIDENCE OF CONSUMPTION TAXES

subjective nature of most studies of, 443; evidence as to shifting of general sales taxes, 446; incidence of selective sales taxes, 447; extent of regressiveness of consumer taxes, 448; failure of studies of, to reveal all aspects of distribution of consumption tax load, 448; impact of consumers' taxes on consumption as within broader definition of, 449-55; exemptions designed to mitigate regressiveness of consumers' taxes, 582-84.

Indian Motorcycle Co. v. United States, 604, 605, 647.

In re Opinion of the Justices, 479-80.

INTERSTATE COMMERCE

applications to sales taxation of established doctrine that states could not tax interstate commerce, 482-84; erosions of the established doctrine, prior to *Berwind-White* decision, 484-86; *Berwind-White* and companion cases as applying new formula of competitive equality between inter- and intrastate commerce, 486-88; liability of interstate transactions to sales tax deemed unaffected by formal nature of taxing enactment, 488-89; delivery held sufficient to empower state of buyer to tax sales in interstate commerce, 489-90; relationship of interstate commerce clause to due process clause, likely taxing power of state of origin as regards interstate sale, 491-92; possible developments in taxation of interstate and extrastate sales, 492-94; doctrine of *Helson* case regarded as substantially repudiated, 495-96; collection of use tax on interstate sale, constitutional limits on, 497-98; compensatory feature in use taxes held probably not required by commerce clause, 498-504; future of sales and use taxes under, 504-05; implied use-tax exemption to instrumentalities of interstate commerce, 601-02; comparative intrastate, intercity problems under municipal consumption taxation, 620-21.

Jagels, "A Fuel Corporation" v. Taylor, 487, 489, 490.

James v. Dravo Contracting Co., 604, 606, 608.

King and Boozer v. Alabama, 610.

Kirk v. Johnson, 583.

Martin v. F. H. Bee Shows, 592.

Materials Service Corp. v. Nudelman, 540.

McCanless Motor Co. v. Maxwell, 589.

McCarroll v. Dixie Greyhound Lines, 602.

McCulloch v. Maryland, 603.

McGoldrick v. A. H. Du Grenier, Inc. et al., 487, 489, 490.

McGoldrick v. Berwind-White Coal Mining Co., 486, 487, 488, 489, 499, 503, 504, 620, 621.

McGoldrick v. Felt & Tarrant Mfg. Co., 487, 489, 490.

MEASURES OF CONSUMPTION TAXES

definition and function of measure, 561; measurement by quantity, 561-63; determination of includible elements of price, 563-68; computation of taxable receipts, 568-71; special problems in treatment of trade-ins, goods repossessed, constructive sales, and combination sales, 571-75; computation of tax, 575-77; allowance of discounts for collection, 577-78; quantitative measures employed in federal taxation of gasoline and lubricating oil, 645; problems of federal price measurement, 646-47, 649.

Mouledoux v. Maestri, 618.

MUNICIPAL CONSUMPTION TAXES

economic factors determining types and rates of, 614-17; legal limitations on power to levy, 617-18; municipal power as regards intrastate, intercity transactions, 619-21; administration of, 621-23; economic validity of, 623-24.

Nashville, Chattanooga & St. Louis Ry. v. Wallace, 484

Nelson v. Sears, Roebuck & Co., 494

O'Kane v. State, 499, 500

Pacific Tel. & Tel. Co. v. Gallagher, 558

Panhandle Refining Co. v. Knox, 604, 605, 606, 608, 609

Peoples Gas Light Co. v. Ames, 590

REGULATORY EFFECTS OF CONSUMPTION TAXATION

factual evidence as to results of use of consumer's tax to influence consumption, 449-50, 454-55; restrictive effects of consumers' taxes where imposed for revenue, statistical data on, 451-54; pyramiding of taxes, evidence as to, 456; inevitability of, under conditions of heavy taxation, 457; principal types of, 457; possibilities in channelization of, to stabilize production and employment, 458-60; use of, for specific economic control, 460-62; federal experience as revealing possibilities in use of consumption taxes for regulatory ends, 651.

RETAIL SALE

two distinct problems in definition of, 543; general reliance upon ingredient or component-part test to differentiate between retail sale and sale for resale, 543; application of the test to recurring type transactions, 544-48; departures from, or repudiation of the test, 549-51; confusion over classification of sales to those performing service, 553-57; ingredient or component-part test to avoid multiple taxation under consumption taxes, 586-87.

SALE

as differentiated administratively from service and from fabrication rental, license, etc., 527-29; common-law definition of, as influencing tax definition of, 530, 533, 541; as distinguished judicially from service, 530-35; as differentiated from "sale by another name," 535-37; for other than money or profit, as within taxable transaction, 537-38; as judicially differentiated from service, 552-53; constructive, taxability of, 573-74; "casual and isolated," exempted on basis of administrative expediency, 580-81.

See also RETAIL SALE, STORAGE, USE.

SALES TAXES

interstate commerce and due process limitations on state imposition of, 482-94; likely effect on, of use taxation, 504-05; definition of taxable transaction for, 522-57; measures of, 561-78; exemptions from: by commodities and transactions, 579-93, by types of consumers, 594-612; advantages of, when used by cities, 620; expanded intrastate, intercity scope of, under municipal taxation, 621.

See also GASOLINE TAXATION; USE TAXES.

Sioux Falls Motor Co. v. Welsh, 580.

Smithberger v. Banning, 480.

Sonneborn Bros. v. Cureton, 484.

Southern Pacific Co. v. Gallagher, 501.

Spalding & Bros. v. Edwards, 648.

State v. Zellner, 580.

State Tax Comm. v. Board of Education, 593.

State Tax Comm. v. State Board of Agriculture, 593.

STORAGE

use of tax on, to avoid interstate commerce limitations, 496-97, 557-58; doubt expressed as to present necessity for tax on, in view of recent commerce clause interpretation, 558.

Swain Nelson & Sons Co. v. Dep't of Finance, 539.

TANGIBLE PERSONALTY

judicial definition of, for consumption taxation, 529, 538-40.

TAXABLE TRANSACTION

definition of, by rules, as means of creating taxpayer acquiescence, 519-20; considerations in administrative definition of, for consumption taxes, 522-23; importance of competitive factor in administrative definition of, 524-25; use of the rule-making function in determination of, 525-27; basic function of administrative definition of, is determination of what is excluded, 527; administrative distinction between sale and service or other commercial transactions, 527-29; judicial definition of taxable sale, 530-38; judicial definition of tangible personal property, 538-40; meaning of retail sale, 542-57; meaning of storage, use or other consumption, 557-60; exemptions as affecting definitions of, 579-612; determination of, under federal consumption taxation, 626-651.

See also EXEMPTIONS, RETAIL SALE, SALE, STORAGE, USE.

Trinity Farm Construction Co. v. Grosjean, 609.

United Artists Corp. v. Taylor, 537.

United Autographic Register Co. v. McGoldrich, 621.

United States v. Butler, 479.

United States v. Query, 607.

United States, Dunn Construction Co. v. Curry, 609-10.

USE

definition of: administrative, 529, judicial, 558-59.

USE TAXES

constitutional limitations on imposition of, 495-504; possibility of disappearance of, as result of greater state power to impose sales taxes, 503-04; liability of property to, when purchased and used out-state before removal to taxing jurisdiction, 504, 558; general applicability to, of sales tax regulations, 557; applicability of, to property not readily obtainable within taxing state, 559, 590-91; measures of, 563-78; exemptions under: by commodities and transactions, 579-93, by types of consumers, 601-02; disadvantages of, when levied by municipalities, as contrasted with sales taxation, 620-21.

See also SALES TAXES.

Western Live Stock v. Bureau of Revenue, 485, 487, 492.

Wiloil Corp. v. Pennsylvania, 485, 621.

Winter v. Barrett, 579.

Wyandotte v. State Board, 590.