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Taxation

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should be irrelevant to the issue of the presence of usury. Likewise, since a time price can be realistically computed only by calculating finance and insurance charges and adding them to the amount to be financed, to make this businesslike method of price determination usurious is absurd. The only answer to the problem lies in better legislation.

The principal function of state statutes limiting finance charges is to protect credit consumers against excessive gouging by dealers and finance companies. Legislatures have been hesitant to enact such statutes to encompass non-automobile credit transactions.

Professor Warren cautions the legislatures that dealer participation regulation constitutes a different type of economic control than is had by finance rate regulation. Whether such control is the answer to the problem of consumer protection cannot be clearly stated and it will be some time before it is clear whether such legislation is necessary.

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TAXATION

JURISDICTION OVER OUT-OF-STATE VENDORS OPERATING THROUGH SOLICITORS, by Louis F. Del Duca, 64 Dick. L. Rev. 7 (October 1959)

Professor Del Duca has undertaken the monumental task of analyzing and departmentalizing a long line of Supreme Court cases dealing with the conflict between the Commerce Clause of the Federal Constitution and the attempts of the several states to derive revenue by taxation of various phases of commerce between the states.

This article will be found to be rewarding for all who undertake an excursion through its pages. For the practicing attorney it provides a well researched, brief, but accurate review of this vast maze of the law, a reading of which will enable him to better advise his clients, whether their problem be a foreign sales tax, use tax, or state net income tax. For the State Tax Commissioner the article points out the distinguishing differences between those tax statutes which have been struck down as violative of the Commerce Clause, and those which, while reaching the same result, have been upheld.

The article deals chiefly with the limitations imposed by the Commerce Clause on a state's ability to tax foreign vendors. The Constitution requires some local activity to occur within the taxing state in order to form a nexus for the tax. An analysis of the cases demonstrates both the quantitative and qualitative aspects of the local activity requisite for the type of tax sought to be imposed. This analysis also indicates to a vendor the manner in which his taxable status is affected according to the method he chooses for the

marketing of his product in a foreign state, ranging between the extremes of establishing local sales outlets and using solicitors within the taxing state.

Applying recent Supreme Court decisions the article reviews the cases seeking to impose a net income tax on a foreign vendor. Case analysis demonstrates what local activity must be present to constitute the incident for the tax. A 1959 federal statute granting foreign vendors a wide area of immunity from this tax is brought to the reader's attention, and certain undesirable aspects of the statute are discussed. The article concludes with a summary of the limitations on a state's power to enforce its tax laws on foreign vendors imposed by the doctrine of *Pennoyer v. Neff* and subsequent cases qualifying that decision.

WILLIAM A. COTTER, JR.
Case Note Editor

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