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POWER OF A STATE TO TAX INTANGIBLES OF A FOREIGN CORPORATION

It is a well-settled proposition that one state may not constitutionally levy a tax upon property in another, this being held to be a violation of the due process clause of the Fourteenth Amendment.¹ In the case of tangible property the rule is not particularly difficult to apply, but in the case of intangibles, chooses in action, which, in the very nature of things, cannot be physically located in any particular place, how can a state be accused of levying an unconstitutional tax upon property in another state when it levies the tax upon intangibles belonging to any person in any state?²

¹ Union Refrigerator Transit Co. v. Kentucky, 199 U. S. 194, 26 S. Ct. 36 (1905); United States v. Bennett, 232 U. S. 299, 34 S. Ct. 433 (1913); Frick v. Pennsylvania, 268 U. S. 473, 45 S. Ct. 603 (1924).

² But see Safe Deposit & Trust Co. v. Virginia, 280 U. S. 83, 50 S. Ct. 59 (1929), 67 A. L. R. 386 (1930); Farmers' Loan & Trust Co. v. Minnesota, 280 U. S. 204, 50 S. Ct. 98, 65 A. L. R. 1000 (1930); Baldwin v. Missouri, 281 U. S. 586, 50 S. Ct. 436 (1930), 72 A. L. R. 1303 (1931); Beidler v. South Carolina Tax Commission, 282 U. S. 1, 51 S. Ct. 54 (1930); First National Bank of Boston v. Maine, 284 U. S. 312, 52 S. Ct. 174, 77 A. L. R. 1401 (1932);