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Articles

ENDING THE TAXATION OF FOREIGN
BUSINESS INCOME *Terrence R. Chorvat* 835

This Article examines the current system of taxation of income earned by U.S. residents (both corporations and individuals) in foreign countries. It finds that adopting a system where this income is exempt from U.S. income tax would increase economic efficiency. This occurs because an exemption system would undo distortions both in investment in new foreign activities by U.S.-based multinationals as well as in the market for the acquisition of foreign enterprises currently caused by the worldwide system. Furthermore, the Article discusses why an exemption system would not introduce any significant distortions that are not already present in the current system. It concludes by briefly discussing what features such an exemption system should have.

SYMMETRY AND ASYMMETRY IN
FEDERAL INDIAN LAW *Robert Laurence* 861

The scientific concept of symmetry is broader than usually noted, dealing with the uniformity, or not, of the laws of physics through various translations in time, space, size, velocity, and so on. In this Article, Professor Laurence finds this broad concept applicable to questions of the uniformity of the law, and in particular to the larger question of American Indian law: when are the rules that obtain in Indian country the same as in the nation at large, and when are they different? The answer lies in the relationship, if any, between the law in question and the ancient sovereignty of the tribe.

Essay

- EQUAL PROTECTION AT THE CROSSROADS:
ON *BAKER*, COMMON BENEFITS, AND
FACIAL NEUTRALITY *Mark Strasser* 935

In *Baker v. State*, the Vermont Supreme Court employed rational basis with bite scrutiny and courageously held that the Vermont Constitution required that same-sex couples be afforded marriage-like benefits. The court recognized that the marriage statute employed a sex-based classification but misunderstood what triggers heightened scrutiny and so refused to employ it. The court's analysis, if adopted, would severely undermine equal protection guarantees. The correct analysis will permit these guarantees to function properly and will force states to should a greater burden when attempting to justify their marriage statutes.

Notes

- LOST IN THE VIRTUAL MALL: IS TRADITIONAL
PERSONAL JURISDICTION ANALYSIS
APPLICABLE TO E-COMMERCE CASES? *Sarah K. Jezairian* 965

The assertion of personal jurisdiction over non-resident defendants traditionally has been based on the nature of the defendant's contacts with the forum. Courts tended to consider concepts such as "minimum contacts" in terms of physical notions, such as travel to the forum state or delivery of goods there. However, e-commerce and other online transactions do not always provide physical indicators of contact, and questions have arisen as to whether contact via the Internet is sufficient to allow assertion of personal jurisdiction. This Note surveys recent e-commerce cases and suggests the need for a more uniform judicial approach to application of personal jurisdiction analysis.

- CAN THE PUBLIC REALLY COUNT ON
INSURANCE AGENTS TO ADVISE
THEM? A CRITIQUE OF THE
"SPECIAL CIRCUMSTANCES" TEST *Daniel Gregory Sakall* 991

Because insurance is a major consideration in many business and personal decisions, insurance agents have assumed a professional role in today's society. Many courts, however, still treat agents as mere salespersons and not professionals. Further, these courts believe that the public can transverse the labyrinth of insurance coverages by themselves, without their agents' advice. By applying a judicially created "special circumstances" test, these same courts hold that agents generally have no duty to advise their clients and empower judges to dismiss clients' claims. This Note argues that the "special circumstances" test should be discarded. In its place, this Note advocates the Arizona approach, which collapses a possible duty to advise into a general professional duty of care owed by insurance agents to their clients and allows juries to make the ultimate decisions.