

**TAXATION—RECIPROCAL INHERITANCE TAX EXEMPTIONS.**—A recent statute of Missouri providing for reciprocal inheritance tax exemptions reads as follows: "The tax imposed by this article in respect of personal property (except tangible personal property having an actual situs in this state) shall not be payable (a) if the transferor at the time of his death was a resident of a state or territory of the United States, or of any foreign country, which at the time of his death did not impose a transfer or death tax of any character in respect of [personal] property of residents of this state (except tangible personal property having an actual situs in such state or territory or foreign country) or (b) if the laws of the state or territory or foreign country of residence of the transferor at the time of his death contained a reciprocal exemption provision under which non-residents were exempted from transfer taxes or death taxes of every character in respect of personal property (except tangible personal property having an actual situs therein) provided the state, territory, or country of residence of such non-residents allowed a similar exemption to residents of the state, territory or country of residence of such transferor." Mo. Laws 1929, p. 102. The statute enacts the model provision sponsored by the National Tax Association. Its effect is to exempt intangible personalty located in the state, owned by non-resident decedents, from double taxation, when the other state accords the same exemption to residents of Missouri.

Reciprocal exemption statutes, of which this is an example, were adopted by the states in an effort to avoid the oppressive result sanctioned a number of years ago by the Supreme Court in the case of *Blackstone v. Miller* (1902) 188 U. S. 189. Under the decision in this case, an inheritance tax could be levied on intangibles of a non-resident decedent in the state where they were located, whether they had been taxed at the domicile of the decedent or not. Thus, in *State v. Baldwin's Estate* (Mo. 1929) 19 S. W. (2d) 732, the transfer of property belonging to a non-resident decedent, consisting of notes, bonds, etc., which were in the possession of an administrator appointed within the state, was held subject to an inheritance tax even though the property was not within the state under the doctrine of *mobilia sequuntur personam*, and notwithstanding the fact that the same property was taxed in the state of the owner's domicile. The same result was reached in *Cornett's Ex'rs. v. Commonwealth* (1920) 127 Va. 640, 105 S. E. 230, in which an inheritance tax on stock owned by a Virginia decedent in a Missouri national bank was sustained even though Missouri had collected an inheritance tax on the same property. This situation, while corrected in large measure as between states which had reciprocal exemption statutes such as that just enacted in Missouri, has been remedied in a drastic way by the decision of the Supreme Court in *Farmers' Loan & Trust Co. v. Minnesota* (1929) 50 S. Ct. 98, which overruled *Blackstone v. Miller, supra*, and held that intangibles which are taxed at the domicile of the owner by virtue of *mobilia sequuntur personam* are entitled to immunity from taxation in another state. This decision, then, accomplishes the same purpose as the reciprocal exemption statutes. It is of general application, so that the remedy is complete.

Apart from the effect of *Farmers' Loan & Trust Co. v. Minnesota*, *supra*, it is found that the popularity of reciprocity statutes of this nature springs from a comparatively recent period. While the first statute of his type was enacted by Massachusetts and a few other states as early as 1907, it was soon repealed and did not appear again until 1925, when Pennsylvania came forward with its statute. A number of other states quickly followed until today there are 35 states having the statute in one form or another. See Brady, *Death Taxes—Developments in Reciprocity* (1929) 15 A. B. A. JOUR. 465.

The case of the wholly non-taxing state, such as Florida, which imposes no inheritance tax of any kind, presents a result which is unsatisfactory in a great many ways. Since the property of Florida decedents is entitled to exemption under the reciprocity statute, the state in which the property is located loses the revenue even though it is not taxed by Florida, and the owner is subjected to the full Federal death tax, which is probably greater than the average state tax. Accordingly, Florida has been made an object of special treatment by several states. Ohio and Oregon have excluded Florida and other non-taxing states from benefits of reciprocity by departmental ruling, and South Carolina, Texas, Iowa and California have done likewise by legislation.

It may be suggested that similar reciprocity statutes in other fields of taxation would aid in eliminating some of the injustice and confusion that results from the presence in the nation of 49 independent taxing jurisdictions. As regards tangible personalty and choses in action the Supreme Court has contributed to a sane solution, holding that situs confers jurisdiction to tax in the one case and domicile in the other. *Frick v. Pennsylvania* (1925) 268 U. S. 473; *Farmers' Loan & Trust Co. v. Minnesota*, *supra*. But the taxation of mortgages and of corporate stock remains a fertile field for remedial measures.

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