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Denzel C. Cline

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THE LITERATURE OF SALES TAXATION

DENZEL C. CLINE*

This paper is limited to literature on general sales taxes and will not include taxes imposed upon the sale of particular commodities, such as gasoline or tobacco. It is also limited to publications by American authors in the last quarter century. Even so, it is impossible in an article of this size to mention all of the contributions to the literature.

References for legal articles on sales and use taxes and related topics, such as interstate commerce, which are published in the law journals are found in the *Index of Legal Periodicals*. Another excellent bibliographical source is the *Tax Institute Bookshelf*, published quarterly by Tax Institute, Inc., Princeton, New Jersey. It includes current publications on government finance, with sales taxes as one classification. Textbooks on public finance and taxation discuss sales taxes and include references to the literature. The books, monographs, and pamphlets on the subject usually contain bibliographies.

Much of the literature appears in the annual *Proceedings* of the National Tax Association and its quarterly, the *National Tax Journal*.¹ Many excellent papers appear in the numerous periodicals on taxation, public finance, and economics.

Commerce Clearing House, Inc., of Chicago publishes *The All-State Sales Tax Reporter*, a three volume loose-leaf service. It contains copies of the sales and use tax laws as amended and the rules and regulations of each state, with explanations of new legal and administrative developments. Other useful sources of information are the annual and special reports of sales tax administrative agencies, reports of legislative tax study committees, publications of the Federation of Tax Administrators,² and an extensive list of writings on tax administration.

The first section of this brief survey is devoted to some important books on sales taxation published in the 1930's, the early period of blossoming of sales taxes. Other sections are arranged topically, each with a selected list of significant writings. An adequate summarization and evaluation of all that has been written on sales taxation would require another book.

BOOKS OF THE 1930's

Of the major contributions to the literature prior to 1940, the four

* Professor of Economics, Michigan State University.

1. Prior to 1948, the monthly Bulletin of the National Tax Ass'n.

2. 1313 E. 60th St., Chicago, Ill.

books published before 1933 were based on foreign experience. Two others were general surveys of the state sales taxes in the beginning period.

Foreign Experience

- Buehler, *General Sales Taxation—Its History and Development*. Pp. 378 (bibliography 339-59). The Business Bourse, New York, N.Y., 1932.
- Nat'l Industrial Conf. Bd., *General Sales or Turnover Taxation*. Pp. 204. Studies No. 146, New York, N.Y., 1929.
- Nat'l Industrial Conf. Bd., *Sales Taxes: General, Selective, and Retail*. Pp. 79. Studies No. 186, New York, N.Y., 1932.
- Shoup, *The Sales Tax in France*. Pp. 369. Columbia Univ. Press, New York, N.Y., 1930.

Surveys of State Sales Taxes

- Haig and Shoup, *The Sales Tax in the American States*. Pp. 833. Columbia Univ. Press, New York, N.Y., 1934.
- Jacoby, *Retail Sales Taxation—Its Relation to Business and Consumers and Administrative Problems*. Pp. 370 (bibliography 355-64). Commerce Clearing House, Inc., Chicago, Ill., 1938.

Professor Buehler's book was first written as his doctoral thesis at Yale University. It is a comprehensive study of the development and operation of general sales taxes in Europe and Canada. It also examines the federal sales tax measure proposed in 1932, and analyzes the various state taxes based on gross receipts. Several chapters are devoted to economic effects and major problems of sales tax administration.

Two early works on the sales tax were prepared by the research staff of the National Industrial Conference Board, a private organization which has published numerous studies on taxation and other economic subjects. The volume *General Sales or Turnover Taxes* concentrates on European experience and the problems likely to be encountered if similar taxes were used in this country. The second book discusses different kinds of sales taxes. It includes the first thorough examination of the merits and disadvantages of a retail sales tax.

Professor Shoup's doctoral dissertation at Columbia University was an exhaustive study of France's experience with its multiple-stage or turnover type of general sales tax. He found that the tax, although successful as a revenue producer, had serious faults particularly in its economic effects.

All four of these pioneer studies emphasized that a major evil of multiple-stage sales taxes is the resulting discrimination among business firms. Such taxes favor the integrated type of business because its product is taxed only once. But when the process involves different

firms, such as manufacturer, wholesaler, and retailer, the tax applies each time the product changes hands, thus "pyramiding" the sales taxes in the price to the consumer.

Each of the books holds that sales taxes tend to be regressive in relation to income and more burdensome on the poor.

The sales tax study by Professors Haig and Shoup in 1933 was an intensive staff survey financed by a research grant to Columbia University. A major part of the report is devoted to the fiscal situation after 1929, the development of the sales tax issue in twenty-seven states, and a unique statistical study of the reaction of taxpayers to the newly imposed tax.

Another section of 117 pages is probably the first extensive treatment of the legal aspects of state general sales taxes. Here are discussed such familiar problems as interstate commerce, federal instrumentalities, exemptions, definitions, persons taxable, and measure of the tax. The *Columbia Law Review* published a major article on the sales tax by Shoup and Haimoff based on this research.³

Professor Jacoby's *Retail Sales Taxation*, published in 1938, was a study for a doctor of philosophy degree at the University of Chicago. With his experience in the administration of the Illinois sales tax and from a comprehensive investigation of the tax in other states, he produced an authoritative work. After a thorough analysis of the operation of the tax and its economic aspects, there is an excellent summary of conclusions and proposals for improvements.

At this point should be mentioned a different but significant contribution to the literature. This is the symposium on *Consumption Taxes* published by the Duke University School of Law in the Summer 1941 issue of *Law and Contemporary Problems*.⁴ It consists of sixteen articles totaling 239 pages. Eleven of the contributors had law degrees, and six others were university economists. Several of the articles deal with the state sales and use taxes.

ECONOMIC INCIDENCE AND EFFECTS

The liveliest sales tax issue concerns the relative burden of the tax upon different income groups. Economists have contributed significant research on the problem of economic incidence and distribution of the burden. A clear and concise presentation of the subject is given in Professor Due's recent text, *Government Finance*. He also is the author of a text, *Intermediate Economic Analysis*.

Professor Due has been a foremost contributor in developing the theory of incidence. His dissertation for the doctorate at the University

3. Shoup and Haimoff, *The Sales Tax*, 34 COLUM. L. REV. 809-30 (1934).

4. *Consumption Taxes—Symposium*, 8 LAW & CONTEMP. PROB. (1941).

of California in 1939 was *The Theory of Incidence of Sales Taxation*. In this book and subsequent writings, incidence theory has been advanced and brought into harmony with the major developments in economics. Several other economists also have published important articles in economic journals on the shifting and incidence of sales taxes.

- Due, *Government Finance, an Economic Analysis*. Pp. 562 (Ch. 16. Commodity Taxation: Shifting and Incidence 281-304). Richard D. Irwin, Inc., Homewood, Ill., 1954.
- Due, *Intermediate Economic Analysis*. Pp. 445. Richard D. Irwin, Inc., Chicago, Ill., 1947.
- Due, *The Theory of Incidence of Sales Taxation*. Pp. 257 (Bibliography 245-50). Kings Crown Press, New York, N.Y., 1942.
- Due, *Ad Valorem and Specific Taxes*, 54 Q. J. ECON. 679-85 (1940).
- Due, *A General Sales Tax and the Level of Employment: a Reconsideration*, 2 NAT'L TAX J. 122-30 (1949).
- Due, *Incidence of a General Sales Tax*, 5 PUB. FINANCE 225-39 (1950).
- Due, *The Incidence of Retail Sales Taxes*, 25 BULL. NAT'L TAX ASS'N 226-30 (1940).
- Due, *The Sales Tax as an Anti-Inflationary Measure*, 6 PUB. FINANCE 385-94 (1951).
- Due, *Toward a General Theory of Sales Tax Incidence*, 67 Q.J. ECON. 253-66 (1953).
- Brown, *The Incidence of a General Output or a General Sales Tax*, 47 J. POL. ECON. 254-62, 418-20 (1939).
- Fagan, *Shifting of Sales Taxes under Joint Costs*, 8 PUB. FINANCE 338-54 (1953).
- Ferger, *The Measurement of Tax Shifting; Economics and Law*, 54 Q.J. ECON. 429-54 (1940).
- Gilbert, *Shifting of Sales Taxes*, 53 Q.J. ECON. 275-85 (1939).
- Higgins, *Incidence of Sales Tax*, 54 Q.J. ECON. 665 (1940).
- Jastram, *Shifting of Sales Taxes*, 54 Q.J. ECON. 673-78 (1940).
- Rolph, *A Proposed Revision of Excise-Tax Theory*, 60 J. POL. ECON. 102-17 (1952).
- Stockfisch, *Capitalization and Investment Aspects of Excise Taxes under Competition*, 44 AM. ECON. REV. 287-300 (1954).

The objection most commonly raised against the sales tax is its regressivity and violation of the ability principle of taxation. It is considered more burdensome on lower income groups because the latter must spend a larger proportion of income for necessities which are taxed. Recent publications reporting upon statistical studies in California, Canada, and Pennsylvania amply confirm this conclusion with respect to sales tax laws which do not exempt food. They also show that the exemption of sales of food changes the tax to one which is roughly proportional to income for most of the population. Results of research published in the 1953 *Report of the Pennsylvania Tax Study Committee* indicate that such a tax would be slightly progressive up to the \$6,000 annual income level.

- Pennsylvania, Governor's Tax Study Committee (Alfred G. Buehler, Chairman), *The Tax Problem; Report*. Pp. 329 (state general sales taxes, 199-228). Harrisburg, Pa., 1953.
- Due, *The General Manufacturers' Sales Tax in Canada*. Pp. 202 (Distribution of the Sales Tax Burden 141-150). Canadian Tax Foundation, Toronto, Canada, 1951.
- Kimmel, *Taxes and Economic Incentives*. Pp. 217 (Sales and excise taxes, 127-55). The Brookings Institution, Washington, D.C., 1950.
- Kimmel, *Economic Effects of Sales and Excise Taxes*, PROC. NAT'L TAX ASS'N 650-58 (45th annual conf. 1952).
- McGrew, *Effect of a Food Exemption on the Incidence of a Retail Sales Tax*, 2 NAT'L TAX J. 362-67 (1949).
- Miller, *Sales-Tax Progressivity Attributable to a Food Exemption*, 4 NAT'L TAX J. 148-59 (1951).
- Musgrave, *Distribution of Tax Burden under Sales and Income Taxes*, 32 BULL. NAT'L TAX ASS'N 16-18 (1946).

Another type of exemption inspiring some recent articles is that of producers' goods. In practice, retail sales taxes apply to a large proportion of the equipment and other goods used in production, as well as to sales of consumer goods. The result is some multiple taxation and tax pyramiding.

- Due, *Retail Sales Taxation in Theory and Practice*, 3 NAT'L TAX J. 314-25 (1950).
- Cline, *Expanding Scope of Sales Taxes*, PROC. NAT'L TAX ASS'N 296-301 (43d annual conf. 1950).
- Taylor, *Toward Rationality in a Retail Sales Tax*, 5 NAT'L TAX J. 79-85 (1952).

A NATIONAL SALES TAX?

Proposals for levying a general sales tax by our federal government have been seriously considered from time to time, and a great amount of literature on this highly controversial issue has resulted. Particularly in the early 1940s there was much discussion in connection with the problems of financing an enormously costly war and controlling inflation. This is indicated by the extensive writings on the question of a federal sales tax as an anti-inflationary measure.

- Blakey, *Federal Sales Tax or Spendings Tax*, 21 TAXES 148 (1943).
- Blakey, *Sales Taxes and Other Excises*, 23 TAXES 770-77 (1945).
- Blakey, R. G. and Gladys C., *Sales Taxes and Other Excises*. Pp. 216. Public Administration Service, Chicago, Ill., 1945.
- Buehler, *The Spendings Tax and Excises*, Tax Institute on Curbing Inflation Through Taxation 91-111 (1944).
- Buehler, *Taxing Consumer Spending*, 28 BULL. NAT'L TAX ASS'N 123-28 (1943).
- Cline, *General Sales Taxes and Selective Excises*, Tax Institute on Financing the War 75-92 (1941).
- Due, *The Sales Tax as an Anti-Inflationary Measure*, 6 PUB. FINANCE 385-94 (1951).

- Farioletti, *A Federal Retail Sales Tax as a Fiscal Device for Curbing Inflation in Wartime*, Tax Institute on Curbing Inflation Through Taxation 63-82 (1944).
- Friedman, *The Spendings Tax as a Wartime Fiscal Measure*, 33 AM. ECON. REV. 50-62 (1943).
- Goode, *Anti-Inflationary Implications of Alternative Forms of Taxation*, 42 AM. ECON. REV. 147-60 (1952).
- Hardy, *Do We Want a Federal Sales Tax?* Pp. 47. Pamphlet No. 48. The Brookings Institution, Washington, D.C., 1943.
- Hart and Brown assisted by Rasmussen, *Financing Defense: Federal Tax and Expenditure Policies*. Pp. 161. The Twentieth Century Fund, New York, N.Y., 1951.
- Leland, *Income Versus Sales Taxation as an Anti-Inflationary Control*, Tax Institute on Financing the War 105-32 (1941).
- Lutz, *Federal Consumption Taxes*, PROC. NAT'L TAX ASS'N 155-64 (45th annual conf. 1952).
- Morton, *A Progressive Consumption Tax*, 4 NAT'L TAX J. 160-66 (1951).
- Nelson, *The Retail Sales Tax*, Tax Institute, on Curbing Inflation Through Taxation 83-90 (1944).
- Schultz, *Economic Effects of a Federal General Sales Tax*, 21 TAXES 419-21 (1943).
- Shoup, Friedman and Mack, *Taxing to Prevent Inflation*. Pp. 236 (sales tax 87-106). Columbia Univ. Press, New York, N.Y., 1943.
- U.S. Treasury Department, *Sales Tax Proposals*. Washington, D.C. Reprint, Hearings Before the Subcommittee on Revenue Revision of the House Committee on Ways and Means, 78th Cong., 1st Sess. (1943).
- Vickrey, *The Spendings Tax in Peace and War*, 43 COLUM. L. REV. 165-70 (1943).
- Walker, *Revenue Possibilities of Federal Excises and General Sales Taxes*, PROC. NAT'L TAX ASS'N 742-46 (34th nat'l conf. 1941).

Most of the writers oppose enactment of a federal sales tax, even as a temporary war emergency tax. Others, while agreeing it may be justified at such a time and is preferable to inflation, oppose it as a permanent feature of the federal tax system. A few urge adoption of the sales tax to permit rate reductions or elimination of some of the existing federal taxes.

There are differences of opinion as to whether a sales tax would be anti-inflationary, and especially whether it would be the most suitable method. In 1942, when it appeared that Congress might adopt the sales tax, the Treasury Department proposed enactment of a spendings tax instead. The latter was to be a tax at graduated rates on total consumer spending. Most writers contended that as an anti-inflation measure it would be superior to the sales tax.

Much has been written on recent proposals for imposing a manufacturers' sales tax at a uniform rate as a substitute for many of the federal excise taxes paid by manufacturers. This is strongly urged by the National Association of Manufacturers. It is opposed by spokesmen for the National Retail Drygoods Association and various other

retailer groups who contend that if a national tax is to be imposed it should be at the retail level. The relative merits of the two types of sales taxes were the subject of forum discussions held in 1953 by the Tax Institute and by the National Industrial Conference Board.

Congress of Industrial Organizations (Dep't of Education and Research), *Behind Drive for Federal Sales Tax*, 14 ECON. OUTLOOK 81-88 (1953).

(Forum), *Should Federal Government Adopt Uniform Manufacturers' Excise?* Pp. 32. Tax Institute, Inc., Princeton, N.J., 1954.

Irwin, *A Federal Administrator's Choice Between a Manufacturers' Excise Tax and a Retail Sales Tax*, PROC. NAT'L TAX ASS'N 263-71 (47th annual conf. 1954).

Kolb, *The Retailers' View of Federal Sales Taxation*, PROC. NAT'L TAX ASS'N 271-76 (47th annual conf. 1954).

Lutz, *Case in Favor of Manufacturers' Excise Tax*, 12 RETAIL CONTROL 9-24 (1954).

Miller, *Federal Sales Taxation: Manufacturers' or Retail Levy?* PROC. NAT'L TAX ASS'N 249-63 (47th annual conf. 1954).

National Association of Manufacturers, *Federal Tax Program*. Pp. 21. New York, N.Y., 1953.

National Association of Manufacturers, *A Federal Tax Program for the Period of Defense and Partial Mobilization*. Pp. 19. New York, N.Y., 1950.

National Industrial Conference Board, *Where Should Excise Taxes be Imposed?* 1953 CONSUMPTION TAXES AND TAX REFORM 55-66.

(Panel), *Should We Have a Federal Sales Tax?* PROC. NAT'L TAX ASS'N 569-77 (46th annual conf. 1953).

Sligh, *The Place of a National Sales Tax in Our Federal Tax System*, PROC. NAT'L TAX ASS'N 12-17 (44th annual conf. 1951).

Stephenson, *Case Against Manufacturers' Excise Tax*, 12 RETAIL CONTROL 25-40 (1954).

LOCAL GOVERNMENT AND THE SALES TAX

Retail sales taxes are now being levied by hundreds of cities and by a few counties. The rise of locally-levied general sales taxes has stimulated much discussion.

On California alone there is an imposing array of publications. When, in addition to the state tax, over 160 cities also tax retail sales, the complexities and problems experienced have created what is appropriately called "California's sales tax headache." The situation led to a special study by a legislative committee and an excellent report in 1953.

California Senate Interim Committee on State and Local Taxation, *State and Local Sales and Use Taxes in California*. Pp. 140. 1953.

Kennedy, *Effects of Multiple Local Sales and Other Taxes on Business*, PROC. NAT'L TAX ASS'N 212-17 (42d nat'l conf. 1949).

Kennedy, *Interrelating of Sales Taxes Imposed by State and Local Taxing Authorities*, PROC. NAT'L TAX ASS'N 430-34 (44th annual conf. 1951).

- Kitchen, *Administration of Municipal Sales Taxes in California*. Pp. 50, Univ. Calif. Bureau Gov. Res., Los Angeles, Calif., 1949.
- Lee, *The County Sales Tax and Other Local Revenues*. Pp. 31. Univ. Calif. Bureau Pub. Admin., Berkeley, Calif., 1951.
- Pierce, *California Has a Sales Tax Headache*, 6 NAT'L TAX J. 168-75 (1953).
- Pierce, *City Sales Taxes*, 1 CAN. TAX J. 564-75 (1953).
- Stockwell, *Local Sales Taxes*, PROC. NAT'L TAX ASS'N 233-41 (40th nat'l conf. 1947).

The city and county sales taxes in New York, which has no state tax, are surveyed in Dr. Stocker's *Non-Property Taxes as Sources of Local Revenue* based on his doctoral thesis at Cornell University.

A Michigan special tax study committee in 1945 recommended legislation permitting any city to levy a one-half cent sales tax, to be collected for it by the state. It was not adopted, and as a result a struggle led by the cities culminated in a constitutional amendment requiring distribution to local units of most of the three percent sales tax. As amended in 1954, the constitution prohibits any increase in the rate.

It may be noted here that since July 1, 1950 some 32 Mississippi cities have voted enactment of a retail sales tax of one-half of one percent which is collected by the state tax commission. Since August 1, 1955, over 500 Illinois cities have adopted ordinances levying a municipal tax of one-half of one percent of the gross receipts from sales of retailers which is collected by the state department of revenue.

- Baum, *Legal Phases of Local Sales Tax*, 14 N.Y.U.L.Q. REV. 28-58 (1936).
- Brabson, *Municipal Income and Excise Taxes—Problems in Situs and Allocation*, 31 TAXES 143-48 (1953).
- Cline, *Pay the Piper—a Study of Michigan Taxes*. Pp. 99. Mich. State College Govt. Research Bureau, East Lansing, Mich. (Govt. service publications, No. 1), 1953.
- Cline, *Proposed Supplemental City Sales Tax in Michigan*, 30 BULL. NAT'L TAX ASS'N 194-98 (1945).
- Cline, *Revising the Sales Tax Distribution*, 2 MICH. STATE UNIV. BUS. TOPICS 1-6 (1954).
- Due, *The Economic Effects of Local Non-Property Taxes*, 8 PUB. FINANCE 388-96 (1953).
- Ford, *Michigan Splits the Sales Tax*, 32 BULL. NAT'L TAX ASS'N 65-72 (1946).
- Ford, *Some Problems of a Municipal Sales Tax*, PROC. NAT'L TAX ASS'N 247-56 (38th Nat'l Conf. 1945).
- Graubard, *Special Problems in the Levy of Municipal Excise Taxes*, 8 LAW & CONTEMP. PROB. 613-24 (1941).
- Michigan Tax Study Advisory Committee, *Report 19-25* (1945).
- Roesken, *Municipal Income, Sales and Use Taxes*, 24 TAXES 972-78 (1946).
- Stocker, *Nonproperty Taxes as Sources of Local Revenue*. Pp. 72. Cornell Univ. Ag. Ex. Sta., Ithaca, N.Y. (Bull. 903), 1953.
- Walker, *The Sales Tax as a Source of Local Revenue*, 33 BULL. NAT'L TAX ASS'N 48-51 (1947).

THE USE TAX

An important segment of the literature on sales taxation consists of writings upon compensating use taxes which complement state and city sales taxes. Since another article in the present symposium is on the use tax, only a bibliographical listing will be given here.

- Brown, *The Future of Use Taxes*, 8 LAW & CONTEMP. PROB. 495-505 (1941).
 Buehler, *Some Economic Problems of Use Taxes*, PROC. NAT'L TAX ASS'N 237-241 (32d nat'l conf. 1939).
 Burke, *Place of Compensatory or Use Taxes in the American Economy*, PROC. NAT'L TAX ASS'N 415-27 (34th nat'l conf. 1941).
 Criz, *The Use Tax—Its History, Administration, and Economic Effects*. Pp. 56 (Bibliography 51-54). Public Administration Serv., Chicago, Ill., 1941.
 Davisson, *Application of Use Tax to Foreign Corporations*, 41 MICH. L. REV. 553-56 (1942).
 Fowks, *Use Tax, Extrastate Collection*, 7 MO. L. REV. 86-90 (1942).
 Greener, *Legal Problems under Tennessee Sales and Use Tax Act*, 20 TENN. L. REV. 647-62 (1949).
 Jacoby, *Sales and Use Taxes as Barriers to Trade—Interstate and Intra-state*, Tax Institute on Tax Barriers to Trade 187-98 (1940).
 Lapsley, *The Power of the State to Require the Seller to Collect a Use Tax from the Purchaser*, 9 ALA. L. REV. 54-58 (1948).
 McLees, *The Use Tax after One Year*, 4 ARK. L. REV. 337-39 (1950).
 Note, *Enforcing State Consumption Taxes on Out-of-State-Purchases*, 65 HARV. L. REV. 301-09 (1951).
 Note, *Sales and Use Tax Dilemma!* 17 U. DET. L. J. 262-66 (1954).
 Powell, *Sales and Use Taxes—Collection from Absentee Vendors*, 57 HARV. L. REV. 1086-97 (1944).
 Scott, *New Illinois Use Tax Adds to Unusual Sales-Tax Situation; Rates Increased*, 3 J. TAXATION 314 (1955).
 Steiner, *Alabama Use Tax and Interstate Commerce*, 9 ALA. L. REV. 282-97 (1948).
 Traynor, *The California Use Tax*, 24 CALIF. L. REV. 175 (1936).
 Waters, *Use Taxes*, 1949 Report Ill. State Rev. Laws Comm'n 294-324 (ch. 14).
 Waters, *Use Taxes and their Legal and Economic Background*. Pp. 92. Univ. Kans. Bureau Business Research, Lawrence, Kansas. (Kansas studies in business no. 19), 1940.

INTERSTATE SALES

Many articles have been inspired by the problems encountered under state and local sales and use taxes as a consequence of constitutional restrictions on taxing interstate and foreign commerce. This also is the subject of another contributor to the present symposium.

- Barrett, *"Substance" vs. "Form" in Application of Commerce Clause to State Taxation*, 101 U. PA. L. REV. 740-91 (1953).
 Cahill, *State Taxation of Interstate Commerce*, 27 ORE. L. REV. 97-129 (1948).

- Dunham, *Gross Receipts Taxes on Interstate Transactions*, 47 COLUM. L. REV. 211-26 (1947).
- Lockhart, *Gross Receipts Taxes on Interstate Transportation and Communication*, 57 HARV. L. REV. 40-95 (1943).
- Lockhart, *The Sales Tax in Interstate Commerce*, 52 HARV. L. REV. 617-44 (1939).
- McNamara, *Jurisdiction and Interstate Commerce Problems in Imposition of Excises on Sales*, 8 LAW & CONTEMP. PROB. 482-94 (1941).
- McNamara, *New Facets Relating to Interstate Problems in Sales Tax Administration*, 16 NOTRE DAME LAW. 194-214 (1941).
- National Ass'n Manufacturers Law Dep't, *State Taxation of Interstate Transactions*, 15 N.A.M. LAW DIGEST 17-28 (1953).
- Note, *Gross Receipts Taxes—A Change in Doctrine*, 56 YALE L.J. 898-905 (1947).
- Note, *State Taxation and Interstate Commerce*, 54 COLUM. L. REV. 261-77 (1954).
- Overton, *State Taxation of Interstate Commerce*, 19 TENN. L. REV. 870-907 (1947).
- Powell, *Commerce Clause and State Taxation*, PROC. NAT'L TAX ASS'N 274-313 (33d nat'l conf. 1940).
- Powell, *More Ado about Gross Receipts Taxes*, 60 HARV. L. REV. 501-38, 710-50 (1947).
- Slifkin, *Constitutional Law—Gross Receipts Taxes in Relation to Interstate Commerce*, 46 MICH. L. REV. 50-58 (1947).
- Snell, *Sales Taxes and Interstate Commerce*, 27 TAXES 37-51 (1949).
- Uris, *Sales Taxes and the Commerce Clause*, 1 N.Y.U. INTRA. L. REV. 11-15 (1945).
- Wood, *General Sales and Use Taxes and the Commerce Clause*, 32 CALIF. L. REV. 281-88 (1944).

SALES TAXES IN CANADA AND WESTERN EUROPE

This section might be omitted if Professor Due were not so prodigiously prolific in creating literature. Since 1951 he has published two major monographs and several articles on Canadian and European sales taxes.

- Due, *American and Canadian Experience with the Sales Tax*, 7 J. FINANCE 463-73 (1952).
- Due, *The British Purchase Tax*, 3 CAN. TAX J. 97-112 (1955).
- Due, *Canada's Experience with the Manufacturers' Sales Tax*, 27 J. U. CHI. BUSINESS 243-53 (1954).
- Due, *The General Manufacturers' Sales Tax in Canada*. Pp. 202 (Bibliography 189-92). Canadian Tax Foundation, Toronto, Canada (Canadian tax papers no. 3), 1951.
- Due, *Lessons from Canada's Experience with Manufacturers' Sales Tax*, PROC. NAT'L TAX ASS'N 31-37 (45th annual conf. 1952).
- Due, *Provincial Retail Sales Taxes in Canada*. Pp. 24. Canadian Tax Foundation, Toronto, Canada, 1951.
- Due, *Provincial Sales Taxes*. Pp. 231 (Bibliography 223-25). Canadian Tax Foundation, Toronto, Canada (Canadian tax papers no. 7), 1953.

- Due, *Sales Taxation in Western Europe: A General Survey*, 8 NAT'L TAX J. 171-85, 300-21 (1955).
- Due, *What is a Taxable Sale Price?* 33 TAXES 718-25 (1955).
- Moore, *What is the Sale Price? (British Purchase Tax)*, 1 CAN. TAX J. 384-90 (1953).
- Soloway, *Economic Aspects of the British Purchase Tax*, 9 J. FINANCE 188-208 (1954).
- Soloway, *The Purchase Tax and Fiscal Policy*, 4 NAT'L TAX J. 304-14 (1951).
- Shoup, *Taxation in France*, 8 NAT'L TAX J. 325-44 (1955).

The national government of Canada has imposed a sales tax since 1921. In 1951 the rate was raised from eight to ten percent. The additional revenue is used for old age pensions. The tax produces about a fifth of the federal revenue.

Professor Due's imposing study of the manufacturers' sales tax was published in 1951. Although the tax is highly productive and has been well administered, experience has revealed its inherent weaknesses. The worst source of difficulty involves the determination of the price for tax purposes when manufacturers make sales other than to wholesalers. The author concludes that the retail sales tax is to be preferred.

Provincial Sales Taxes, published in 1953, is a comprehensive report of Due's survey of the retail sales taxes levied in five of the Canadian provinces. Much of the data was obtained by personal interviews with tax administrators and over 250 business men from coast to coast. Information from the latter was the basis for a significant chapter on tax compliance problems from the viewpoint of vendors.

Food is not taxed in Canada under the national or provincial sales taxes. The author finds that this exemption is justifiable in improving equity, and it does not impair administration. He is highly critical, however, of the extent the taxes apply to sales of producer goods. About a quarter of the manufacturers' sales tax is estimated to come from such sales. He also finds a great need for better coordination of tax laws and administration when both the national and provincial governments impose sales taxes.

Both of these books are well written and set a high standard, especially in skillful economic analysis and critical evaluation.

Very little in English appeared on European sales taxes after Buehler's study in 1932 until Due's articles were published in the *National Tax Journal* in 1955. These present a summary report upon the sales taxes of eleven countries.

The multiple-stage or turnover type of tax is used in Germany, Austria, Belgium, Luxembourg, and Italy. These were found to have inequities, complexities, and undesirable effects. In particular, the

Italian sales tax is a "masterpiece of chaos from the standpoint of structure."⁵

Other countries have used a single-stage type of sales tax. Some readers may be interested to learn that Norway has a ten percent retail sales tax which produces thirty percent of the national tax revenue; and little Finland has a twenty percent manufacturers' sales tax which yields half of the government's revenue. Sweden had a five percent retail sales tax from 1940 to 1948. The Swiss have a wholesale sales tax which was found to be one of the simplest and most effective in Europe. The basic rate is six percent on sales to retailers, and food is exempt. The author concludes,

"The success of Switzerland with its wholesale form of sales tax suggests that this type warrants more attention in the United States than it has received, should the issue of a Federal sales tax become a significant one again."⁶

In France the reform effective July 1, 1955, resulted in the elimination of the transactions sales taxes which for years had been so troublesome. The local tax was restricted to one on retail sales and is collected for the municipalities by the Ministry of Finance.

More has been written by Dr. Due and others on the British purchase tax. It was imposed in 1940 as a war revenue measure and as a device to curtail consumers' spending. This is a single-stage tax on wholesale sales of a large number of specified commodities, arranged in three groups which are taxed at different rates. In October 1955 these were increased to thirty, sixty and ninety percent respectively; and the use of the tax as a control device was revived to aid the program for eliminating Britain's balance of payments deficit.

5. Due, *Sales Taxation in Western Europe*, 8 NAT'L TAX J. 300, 313 (1955).

6. *Id.* at 321.