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## State and Local Taxation: Mid-Term Examination (March 1956)

William & Mary Law School

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## STATE AND LOCAL TAXATION

Mid-Term Examination

March, 1956

TV, a Delaware corporation, manufactures television sets at its only factory and principal place of business near Richmond, Virginia. It operates a branch office and warehouse in North Carolina. The North Carolina office serves as a home office for its salesmen who solicit business from unaffiliated retailers in North Carolina and South Carolina. Orders taken by these salesmen are sent to the N. C. office and approved there for sets which are stocked at and shipped FOB from the local warehouse, and orders which are taken for sets not stocked there are sent directly by the salesmen to the Richmond office for approval and FOB shipment to the buyer. Checks in payment are sent either to the N. C. office or Richmond office depending upon which location approved and filled the order.

Which, if any, of the following taxes would the Corporation have a reasonably fair chance of contesting successfully on Federal constitutional grounds and in what respects:

1. N. C. imposes an annual excise tax upon all corporations for the privilege of doing business in the State. The tax rate is applied to the issued capital stock of the corporation apportioned by the gross sales resulting from business done within the State to the total gross sales of the corporation. The N. C. Tax Commissioner has included in gross sales resulting from business done within N. C. all sales made to buyers in N. C. and S. C., which were promoted by salesmen attached to the N. C. office.

2. Virginia imposes a tax upon all corporations on the net income derived from sources within Virginia. In the case of a corporation which derives income both from within and without Virginia, its net income attributable to Virginia is apportioned by property and sales within with respect to total property and sales. The Tax Commissioner has included as Virginia intangible property accounts receivable from the sale of TV sets manufactured in Virginia wherever sold, and has included as Virginia sales all sales of Virginia manufactured sets wherever sold.

3. South Carolina imposes a general sales tax upon the seller on all sales within the State at a percentage of the amount of receipts. The S. C. Tax Commissioner has sought to subject to the tax all sales of TV sets to S. C. buyers.