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Due Process

not violate the equal protection clause.[176] The court concluded that the restrictions were reasonably related to Virginia's purpose of transportation safety, efficiency and growth.[177] Likewise, based on analogous reasoning, Virginia had the ability to regulate truck weight without placing an undue burden on interstate commerce.[178]

Hence, regulations set forth by VTL section 385(15) comport with both the due process and equal protection clauses of the state and federal constitutions, in addition to fostering interstate commerce.

Treichler v. Niagara-Wheatfield Central School District[179] (Decided Nov. 18, 1992)

Plaintiffs claimed that article 19 of the Real Property Tax Law (RPTL),[180] which allowed the Niagara-Wheatfield Central School District to establish district-wide homestead and non-homestead tax rates, violated their state and federal constitutional rights to due process[181] and equal protection.[182] The court upheld article 19 since there was a "rational basis for the Legislature's use of the one-third fraction or 'number of parcels,'

176. *Gutridge*, 532 F. Supp. at 537.

177. *Id.*

178. *Id.* at 538.

179. 184 A.D.2d 1, 590 N.Y.S.2d 954 (4th Dep't 1992).

180. N.Y. REAL PROP. TAX LAW §§ 1901-1905 (McKinney 1989). Plaintiffs specifically challenged sections 1903(5)(b), 1901(x), and 1903-a.

181. N.Y. CONST. art. I, § 6 ("No person shall be deprived of life, liberty or property without due process of law."). *See also* U.S. CONST. amend. XIV, § 1 ("No state shall . . . deprive any person of life, liberty, or property, without due process of law . . . .").

182. *Treichler*, 184 A.D.2d at 4, 590 N.Y.S.2d at 955. N.Y. CONST. art. I, § 11 ("No person shall be denied the equal protection of the laws of this state or any subdivision thereof."). *See also* U.S. CONST. amend. XIV, § 1 ("No state shall . . . deny to any person within its jurisdiction the equal protection of the laws.").

as the criteria for allowing school districts to adopt the homestead and non-homestead tax classification on a district wide-basis."[183]

Plaintiffs owned non-homestead property in Lewiston, a town which was located in the Niagara-Wheatfield Central School District.[184] Prior to the 1988-89 school tax year, the Town of Niagara reevaluated its real property and, pursuant to the RPTL, adopted a dual tax rate which differentiated between homestead and non-homestead property.[185]

At least one-third of the parcels within the Niagara-Wheatfield school district were from the Town of Niagara. Therefore, as an "eligible split school district," the RPTL permitted the school district to establish a dual tax rate for all the parcels within the district, including those towns which had not adopted it.[186] Specifically, the school district created a dual tax rate for homestead and non-homestead parcels within the district for the 1988-89 and the 1989-90 school years.[187] As a result of this change, the other towns within the district were subject to this dual rate school tax. Inasmuch as Lewiston was part of the Niagara-Wheatfield school district, the plaintiffs were similarly subject to this dual tax rate. Plaintiffs claimed that "using the number of parcels as the qualifying criterion, without consideration of the size, use or value of those parcels," violated their constitutional rights since "it enables those towns constituting a minority of the parcels within the district to control school district economics . . . ."[188]

The fourth department held that article 19 of the RPTL was not facially unconstitutional.[189] At the onset, the court underscored the strong presumption of constitutionality afforded to this statutory provision.[190] Thus, the plaintiffs had a difficult burden to

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183. *Treichler*, 184 A.D.2d at 4-5, 590 N.Y.S.2d at 955-56 (footnote omitted).

184. *Id.* at 3, 590 N.Y.S.2d at 955.

185. *Id.*

186. *Id.*

187. *Id.* at 3-4, 590 N.Y.S.2d at 955.

188. *Id.* at 5, 590 N.Y.S.2d at 956.

189. *Id.* at 7-8, 590 N.Y.S.2d at 957.

190. *Id.* at 5, 590 N.Y.S.2d at 956.

bear in overcoming this presumption of constitutionality. In that vein, the New York Court of Appeals has held that this "presumption 'can be overcome only by the most explicit demonstration that [the] classification is a hostile and oppressive discrimination against particular persons and classes. The burden is on the one attacking the legislative arrangement to negative every conceivable basis which might support it.'"[191]

Article 19 of the RPTL was enacted to encourage the revaluation of property.[192] Additionally, the court found that the use of the one-third fraction was rationally related to this goal because using a minority of the property within a district would provide a greater incentive for other areas within the district to reevaluate.[193] The court stated that "[g]reater encouragement is provided in those instances where fewer parcels have undergone revaluation."[194] Therefore, the appellate division held that there was no violation of the Due Process Clause because the one-third fraction was a legitimate way to determine whether a school could impose a dual tax rate.[195]

In addition, the court held that there was no equal protection violation since the homestead/nonhomestead classification was reasonable and the taxes were uniformly applied within the class.[196] The classification in *Treichler* maintained a *de facto* tax structure that had already existed and "assur[ed] stability in the

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191. *Id.* (quoting Madden v. Kentucky, 309 U.S. 83, 88 (1940)). *See also* Trump v. Chu, 65 N.Y.2d 20, 478 N.E.2d 971, 489 N.Y.S.2d 455, (stating that tax statute is presumptively constitutional), *appeal dismissed*, 474 U.S. 915 (1985).

192. *Treichler*, 184 A.D.2d at 5, 590 N.Y.S.2d at 956.

193. *Id.* at 6, 590 N.Y.S.2d at 956.

194. *Id.* at 6, 590 N.Y.S.2d at 956-57.

195. *Id.* at 6, 590 N.Y.S.2d at 957. Under both the state and federal constitutions, dual tax rates are constitutional "as long as the classification is reasonable and the taxes imposed are uniform within the class." *Id.* (quoting Foss v. City of Rochester, 65 N.Y.2d 247, 256, 480 N.E.2d 717, 722, 491 N.Y.S.2d 128, 133 (1985)). *See also* Lehnhausen v. Lake Shore Auto Parts Co., 410 U.S. 356, 359 (1973) (states "may . . . draw lines that treat one class of individuals . . . differently from others . . . [so long as] the difference in treatment is [not] . . . invidious discrimination").

196. *Treichler*, 184 A.D.2d at 7, 590 N.Y.S.2d at 957.

relative tax burdens of taxpayers."[197] The court also found that "the tax rate for non-homestead taxpayers throughout the district were 'presumably equalized . . . .'"[198]

The appellate division found that plaintiffs' reliance on *Foss v. City of Rochester*[199] was misplaced since the classification in *Treichler* was both reasonable and equally imposed throughout the district.[200] In *Foss*, the New York Court of Appeals stated that

> [T]he Federal and State Constitutions do not prohibit dual tax rates or require that all taxpayers be treated the same. They require only that those similarly situated be treated uniformly. Thus, the creation of different classes for purposes of taxation is permissible as long as the classification is reasonable and the taxes imposed are uniform within the class.[201]

Employing that standard, the *Foss* court held that the application of article 19 of the RPTL violated the Equal Protection Clause because the City of Rochester was taxing people within the same taxing district using different rates.[202] As a consequence, unequal burdens were imposed on taxpayers who were similarly situated. Therefore, that court held that article 19, having treated property within the same taxing district unequally, did not further any legitimate state interests

The fourth department distinguished *Foss* from *Treichler*. In *Foss*, the tax was unequally imposed on property within the same taxing district. However, in *Treichler*, all of the property within one taxing district was equally affected. Therefore, there was no violation of plaintiffs' constitutional rights.

Current Supreme Court jurisprudence similarly employs the rational basis standard. In *Madden v. Kentucky*,[203] the Court stated that legislatures need broad discretion to formulate sound tax

197. *Id.*
198. *Id.*
199. 65 N.Y.2d 247, 480 N.E.2d 727, 491 N.Y.S.2d 128 (1985).
200. *Treichler*, 184 A.D.2d at 7, 590 N.Y.S.2d. at 957.
201. *Foss*, 65 N.Y.2d at 256, 480 N.E.2d at 722, 491 N.Y.S.2d at 133.
202. *Id.* at 254, 480 N.E.2d at 720, 491 N.Y.S.2d at 131.
203. 309 U.S. 83 (1940).

policies.[204] Furthermore, "the Fourteenth Amendment was not intended to compel the state to adopt an iron rule of equal taxation . . . ."[205]

> Traditionally classification has been a device for fitting tax programs to local needs and usages in order to achieve an equitable distribution of the tax burden . . . . [T]he presumption of constitutionality can be overcome only by the most explicit demonstration that a classification is a hostile and oppressive discrimination against particular persons and class.[206]

In *Madden,* the Supreme Court concluded that neither the Due Process Clause nor the Equal Protection Clause was violated when Kentucky imposed a higher tax on deposits made in banks outside of Kentucky banks than deposits made in Kentucky banks.[207] There was a rational basis for the difference in the tax rate, namely, "differences in the difficulties and expenses of tax collection."[208] Consequently, that legislation was upheld.

In conclusion, neither the New York Court of Appeals nor the Supreme Court have imposed a strict standard of review for economic legislation. The rational basis test used by both courts affords state legislatures great deference in this area. As such, most economic legislation will be upheld under this standard.

WESTCHESTER COUNTY

New York v. Cortlandt Medical Building Associate[209] (decided March 17, 1992)

The defandant claimed that his rights to due process and equal protection pursuant to the state[210] and federal[211] constitutions

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204. *Id.* at 87-88 (footnote omitted).

205. *Id.* at 88 (quoting Bell's Gap R.R. Co. v. Pennsylvania, 134 U.S. 232, 237 (1980)).

206. *Id.* (footnote omitted).

207. *Id.* at 88-90.

208. *Id.* at 90 (footnote omitted).

209. 153 Misc. 2d 692, 582 N.Y.S.2d 640 (Town Ct. Westchester County 1992).