

CHAPTER 6 QUIZ

TRUE/FALSE

1. The power of states to enact laws is broader than the power of the federal government.
2. The powers of the state government and the powers of the federal government are mutually exclusive.
3. The existence of a federal law does not necessarily prohibit a state from enacting similar laws.
4. Ultimately, the determination of the constitutionality of state laws is up to the U.S. Supreme Court.
5. A federal law can preempt not only a state legislative enactment but also a state common law right to sue.
6. Whether express preemption exists depends on congressional intent.
7. The Supreme Court has held that, because of the doctrine of preemption, a cigarette manufacturer who complied with federal labeling requirements could not be sued in state court for failure to adequately warn of the dangers of cigarette smoking.
8. A federal law can impliedly preempt a state law.
9. The Supreme Court has held that a state law prohibiting banks from selling insurance conflicts with a federal law giving banks the right to sell insurance in small towns.
10. The dormant commerce clause is a total prohibition on the right of states to make laws that affect interstate commerce.

MULTIPLE CHOICE

1. The powers of states to enact laws is found in
 - A. the First Amendment.
 - B. the Fifth Amendment.
 - C. the Tenth Amendment.
 - D. the Fourteenth Amendment.

2. In general, a state law is found unconstitutional
 - A. if a federal law preempts the state law.
 - B. if a state law or tax violates the commerce clause, even though there is no federal law on the subject (dormant commerce clause).
 - C. if the state law violates some other provision of the Constitution.
 - D. All of the above.

3. A clause in a federal law providing that the law “does not exempt any person from any liability under common law” is known as a
 - A. preemption clause.
 - B. a savings clause.
 - C. an exemption clause.
 - D. a liability clause.

4. The key factor in deciding if field preemption applies is
 - A. the intent of Congress.
 - B. if a conflict between the federal and state law exists.
 - C. the intent behind the state law.
 - D. None of the above.

5. One common criterion used by the Court to decide if conflict preemption exists is
 - A. whether compliance with both federal and state regulations is a physical impossibility.
 - B. the scope of the federal law and the federal interest involved.
 - C. whether the federal law was enacted first.
 - D. whether the federal law is broader than the state law.

6. The dormant commerce clause applies to
 - A. situations where federal and state laws actually conflict.
 - B. any state law that impacts interstate commerce.
 - C. state laws that impact interstate commerce where no federal law on the subject exists.
 - D. federal laws that impact interstate commerce where no state law on the subject exists.

7. In determining if a state law is unconstitutional under the dormant commerce clause, the Court considers
- A. whether the state law conflicts with a federal law.
 - B. the burden on interstate commerce in relation to local necessity.
 - C. whether other states have similar laws.
 - D. None of the above.
8. Which of the following laws was held *not* to be in violation of the dormant commerce clause for unfairly discriminating against out-of-state interests?
- A. a law that imposed a surcharge of \$2.50 on solid waste if the waste had been generated out of state, but only \$.85 if generated within the state
 - B. a property tax exemption for charitable institutions that excluded organizations operated principally for the benefit of nonresidents
 - C. a state law that “tolled” the statute of limitations for a breach of contract case for times that the defendant was out of state
 - D. an environmental law prohibiting milk from being packaged in plastic containers when the result was a benefit to the large paper industry of the state
9. Which of the following is *not* a criteria considered by the Supreme Court when it evaluates the constitutionality of a state tax affecting interstate commerce?
- A. whether the tax is on an activity that has substantial nexus with the taxing state
 - B. the amount of the tax
 - C. whether the taxed business or individual faces the possibility of a double tax in another state
 - D. whether the tax is fairly related to services provided by the taxing state
10. Under Article 1 §10, entitled “Powers Denied to the States,” states are *not* prohibited from
- A. entering into treaties or alliances.
 - B. enacting laws pursuant to a general police power.
 - C. passing a Bill of Attainder, an ex post facto law, or a law impairing the obligation of contracts.
 - D. granting a title of nobility.