

What a Decision on Affirmative Action Teaches About Taxation

51 Rutgers L. Rec. 102 (2023) | [WestLaw](#) | [LexisNexis](#) | [PDF I. INTRODUCTION](#)

The 2023 U.S. Supreme Court decision *Students for Fair Admissions v. Harvard*¹ has been described as a “landmark”² decision with respect to affirmative action. The Court held that race-based admissions policies at two U.S. universities violated the Equal Protection Clause of the Fourteenth Amendment.³

At first glance, it may appear that *Students* has nothing to do with taxation. But closer examination reveals that *Students* is directly relevant to the U.S. nationality-based tax system.

This article: (II) situates the U.S. nationality-based tax system in the context of Fourteenth Amendment Equal Protection; and then (III) explains the relevance of *Students* for the U.S. nationality-based tax system.

¹ [Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll., 600 U.S. 181 \(2023\)](#).

² The Editorial Board, A Landmark for Racial Equality at the Supreme Court, *Wall St. J.* (June 29, 2023), <https://www.wsj.com/articles/harvard-unc-students-for-fair-admissions-supreme-court-affirmative-action-john-roberts-clarence-thomas-racial-preferences-f8c998f6>.

³ [Students for Fair Admissions, Inc., 600 U.S. at 220](#); see also U.S. Const. amend. XIV, § 1.

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