

## **Taxing the Right To Work**

Here are some important state cases regarding the taxability of compensation for labor:

O'Keefe v. City of Somerville, 190 Mass. 110, 76 N.E. 457, 458 (1906): "cannot levy an excise tax upon the business of a husbandman or an ordinary mechanic."

Sims v. Ahrens, 167 Ark. 557, 271 S.W. 720, 733 (1925): "[T]he Legislature has no power to declare as a privilege and tax for revenue purposes occupations that are of common right, but it does have the power to declare as privileges and tax as such for state revenue purposes those pursuits and occupations that are not matters of common right..."

Redfield v. Fisher, 135 Or. 180, 292 P. 813, 819 (Ore. 1930): "The individual, unlike the corporation, cannot be taxed for the mere privilege of existing. The corporation is an artificial entity which owes its existence and charter powers to the state; but the individual's rights to live and own property are natural rights for the enjoyment of which an excise cannot be imposed."

Jerome H. Sheip Co. v. Amos, 100 Fla. 863, 130 So. 699, 705 (1930): gas tax case: "A man is free to lay hand upon his own property. To acquire and possess property is a right, not a privilege ... The right to acquire and possess property cannot alone be made the subject of an excise .... nor, generally speaking, can an excise be laid upon the mere right to possess the fruits thereof, as that right is the chief attribute of ownership."

Cary v. Bellingham, 41 Wn.2d 468, 250 P.2d 114 (1952): excise can't be used to tax right to work.

Jack Cole Co. v. MacFarland, 337 S.W.2d 453, 455-56 (Tenn. 1960): "Realizing and receiving income or earnings is not a privilege that can be taxed. \* \* \* Since the right to receive income or earnings is a right belonging to every person, this right cannot be taxed as a privilege."