

## CONTROLLING LEGAL PRINCIPLES

### *Free Exercise Clause Decision – The “Contemplation of Justice”*

*WELCH v. HENRY, 305 U.S. 134, 147 (1938)*



“Taxation is neither a penalty imposed on the taxpayer nor a liability which he assumes by contract. It is but a way of apportioning the cost of government among those who in some measure are privileged to enjoy its benefits and must bear its burdens. [305 U.S. 134, 147]” *Emphasis added*

“Any classification of taxation is permissible which has reasonable relation to a legitimate end of governmental action. Taxation is but the means by which government distributes the burdens of its cost among those who enjoy its benefits.”

Possible differences in tax burdens, not shown to be substantial, or which are based on discrimination not shown to be arbitrary or capricious, do not fall within the constitutional prohibition. *Lawrence v. State Tax Commission*, 286 U.S. 276, 284, 285 S., 52 S.Ct. 556, 558, 559, 87 A.L.R. 374, and cases cited.

AFFIRMED.

Mr. Justice ROBERTS (dissenting).

If, as this court has repeatedly said, an income tax is an equitable method of distributing the necessary burdens of government, certainly no such discrimination as is evidenced by the challenged act can properly fall within the description. **The Act evidences purposeful and arbitrary discrimination and thus violates the guarantee of equal protection.**

Mr. Justice McREYNOLDS and Mr. Justice BUTLER join in this opinion.