

Income/Franchise:

Pennsylvania Supreme Court Affirms Philadelphia Validly Denied Wage Tax Credit for Taxes Paid to Other State

Case Nos. 20 EAP 2022 and 21 EAP 2022, Pa. (11/22/23). In a case involving a resident of the City of Philadelphia, Pennsylvania (City) who worked full-time in the City of Wilmington, Delaware, the Pennsylvania Supreme Court (Court) affirmed denial of the resident's claim for an additional City wage tax credit for a portion of the Delaware state taxes incurred [see *State Tax Matters*, Issue 2022-2, for details on the Pennsylvania Commonwealth Court's 2022 ruling in this case]. The City allowed the taxpayer to claim a credit against her Philadelphia wage taxes for City of Wilmington taxes she incurred, but the taxpayer argued she was entitled to an additional credit against her Philadelphia wage taxes for the portion of income taxes that she paid to the State of Delaware in excess of what was credited against her income taxes paid to the Commonwealth of Pennsylvania. The Court concluded that state and local taxes need not be aggregated in conducting a dormant Commerce Clause analysis, and that, ultimately, the City's wage tax scheme does *not* discriminate against interstate commerce. In doing so, the Court rejected the taxpayer's claim that the City unconstitutionally discriminated against interstate commerce by subjecting a City resident who worked exclusively out-of-state to its wage tax and allowing her credit against that City wage tax only for the local income tax she paid to another jurisdiction, while declining to afford her additional credit for the out-of-state income tax she paid.

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In reaching this conclusion, the Court explained that it placed "paramount importance" on the *Wynne* case, which it found to be "instructive on the question of aggregation." The Court stated that consistent with *Wynne*, the City's wage tax was enacted and operates "as a purely local tax, given that it was promulgated by Philadelphia's City Council and is collected by the [City Department of Revenue] for the sole benefit of the City and its residents; as a result, we will not consider these state and local taxes in the aggregate in applying the *Complete Auto* test." In this context, the Court concluded that the City did not violate the dormant Commerce Clause by:

1. Imposing upon the resident the City's wage tax,
2. Crediting her for the similar local tax she paid to the City of Wilmington, Delaware, yet
3. Declining to afford her an additional credit for the state taxes she paid to Delaware, "as the tax scheme is both internally and externally consistent and is not discriminatory against interstate commerce, in conformance with the *Complete Auto* test."

Concurring and dissenting opinions follow. Please contact us with any questions.

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