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Pennsylvania Supreme Court Holds City Wage Tax Not Required to Credit Delaware State Income Tax.

The Pennsylvania Supreme Court held that the City of Philadelphia is not required provide a city wage tax credit for income tax payments that a resident made to another state. For the purposes of a dormant Commerce Clause analysis, the court found that state and local taxes do not need to be considered in the aggregate. Therefore, Philadelphia did not violate the dormant Commerce Clause by imposing its wage tax on a resident who worked exclusively in Wilmington, Delaware, and crediting her for Wilmington Earned Income Tax payments while not providing an additional credit for the resident's payments of Delaware Income Tax. In reaching its decision, the court first concluded that the wage tax was a "purely local tax ... promulgated by Philadelphia's City Council and ... collected ... for the sole benefit of the City and its residents," and not a "state tax masquerading as a local tax" that would require the two taxes to be considered in tandem. The court then held that Philadelphia's tax scheme did not discriminate against interstate commerce because it was internally consistent as any excess tax paid was a result of Delaware's higher income tax rate rather than any inherent discrimination in Philadelphia's tax scheme itself and externally consistent as the imposition was justified by the City's provision of municipal benefits and services to its residents and of a full credit for the local Wilmington tax.

[*Diane Zilka v. Tax Review Board City of Philadelphia, No. 20 EAP 2022 and 21 EAP 2022 \(Pa. Nov. 22, 2022\).*](#)

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