TAX - PENNSYLVANIA

Zilka v. Tax Review Board City of Philadelphia

Supreme Court of Pennsylvania - November 22, 2023 - A.3d - 2023 WL 8102749

Taxpayer, who was a resident of a Pennsylvania city with an income tax but who worked exclusively in another state, appealed decision of city's tax review board to deny her request for refund that represented a credit against the city's income tax for that portion of her out-of-state income-tax liability that was not offset by her credit against Pennsylvania income tax, even though the city allowed taxpayer a credit for what she paid in analogous local tax to a city in the other state.

The Court of Common Pleas affirmed without taking additional evidence. Taxpayer appealed. The Commonwealth Court affirmed. Taxpayer petitioned for allowance to appeal.

The Supreme Court held that:

- As a matter of first impression, Pennsylvania income tax and the city income tax would be considered discrete, rather than aggregate, taxes, and
- The Dormant Commerce Clause did not entitle taxpayer to the requested refund.

Pennsylvania income tax and the income tax levied by Pennsylvania city would be considered discrete, rather than aggregate, taxes when deciding whether Dormant Commerce Clause entitled taxpayer, who was a resident of the Pennsylvania city but who worked exclusively in another state, to a credit against the city's income tax for that portion of her out-of-state income-tax liability that was not offset by her credit against Pennsylvania income tax; city income tax was promulgated by the city council and collected for the sole benefit of the city and its residents.

Dormant Commerce Clause did not entitle taxpayer, who was a resident of a Pennsylvania city with an income tax but who worked exclusively in another state, to a credit against the city's income tax for that portion of her out-of-state income-tax liability that was not offset by her credit against Pennsylvania income tax, even though the city did allow taxpayer a credit based on the analogous local tax that she paid to a city in the other state; the Pennsylvania and city income tax were discrete taxes, given that the city income tax was promulgated by the city council and collected for the sole benefit of the city and its residents, and city income tax was internally and externally consistent, since any excess income tax paid by taxpayer was simply the result of the other state's higher income-tax rate, city allowed taxpayer a credit against analogous local tax that she paid to the other state, and domicile in itself established a basis for taxation.

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