

American College of Tax Counsel Files Amicus Brief with U.S. Supreme Court

ROCHESTER, NEW YORK, UNITED STATES, March 29, 2024 /EINPresswire.com/ -- The American College of Tax Counsel (the "College") announces the filing on March 25, 2024, of an amicus brief with the United States Supreme Court in the case of Diane Zilka v. Tax Review Board City of Philadelphia (No. 23-914). The College filed the brief in support of the taxpayer's petition for a

writ of certiorari and supports a reversal of the Pennsylvania Supreme Court's decision in *Zilka v. Tax Review Board City of Philadelphia*, 304 A.3d 1153 (Pa. 2023).



The amicus brief filed in this case lines up squarely with our mission of supporting fair and consistent application of tax laws across the country at the state, local and federal levels."

Bahar Schippel, President of the American College of Tax Counsel

The issue in the case is whether Philadelphia's wage tax, which offers a credit for taxes paid to other municipalities but not for taxes paid to other states, violates the dormant Commerce Clause of the United States Constitution. In order to avoid the double taxation that would discriminate against interstate commerce, the dormant Commerce Clause generally requires that states offer their residents a credit for taxes paid out of state.

In *Comptroller of the Treasury of Maryland v. Wynne*, 575 U.S. 542 (2015), the Supreme Court evaluated Maryland's tax scheme, including both state and local taxes, and determined that Maryland's failure to offer residents a full credit for taxes paid to other state and local taxing jurisdictions violated the dormant Commerce Clause. Residents of Philadelphia who work for out-of-state employers generally are subject to tax on their earnings by both Philadelphia and Pennsylvania, and they may also be subject to tax by the other state and/or municipality where they work. The Pennsylvania Supreme Court considered local taxes separately from state taxes and therefore concluded that Philadelphia's wage tax is constitutional even though it allows a credit only for taxes paid to other municipalities and not taxes paid to other states.

The College's brief argues that the Pennsylvania Supreme Court's decision violates basic principles behind the dormant Commerce Clause and *Wynne*, and also conflicts with high court decisions of other states. The College asks the Supreme Court to grant certiorari in order to clarify the law and protect interstate commerce against discriminatory taxes imposed on commuters or remote workers at the local level. Counsel of record for the College, Andrew Weiner, noted that "this case is important to our national economy and to establish how the

dormant Commerce Clause applies to literally thousands of local taxing jurisdictions.” Bahar Schippel, President of the College, observed that “the amicus brief filed in this case lines up squarely with our mission of supporting fair and consistent application of tax laws across the country at the state, local and federal levels.”

Background of the Case

Many residents of Philadelphia, including Ms. Zilka, commute to work for employers in other states like Connecticut, Delaware, New Jersey, and New York, or work remotely for out-of-state employers. Philadelphia residents generally must pay tax on their earnings to both Philadelphia and Pennsylvania. If a Philadelphia resident earns compensation in a state and/or municipality that imposes a tax on the earnings of nonresidents, they must generally pay tax there as well, absent a reciprocity agreement. Pennsylvania offers its residents a credit against its income tax for taxes paid to other states, but not for taxes paid to out-of-state municipalities. Similarly, Philadelphia offers its residents a credit against its wage tax for taxes paid to other municipalities, but not for taxes paid to other states. In contrast to the vast majority of taxing jurisdictions, which impose a higher state income tax and a lower-to-no municipal tax, the Philadelphia wage tax has long exceeded the rate of Pennsylvania income tax.

Under this tax scheme, the high taxes imposed by other states are not available to offset Philadelphia’s high wage tax. The practical effect is that Philadelphia residents who work out of state pay high state taxes to other states and high municipal tax to Philadelphia, with no way to avoid the double taxation. Accordingly, these Philadelphia residents are almost certain to face higher tax burdens when making the choice to work out-of-state. You can read the brief on the Supreme Court’s website by following this [link](#).

About Amicus Briefs

A brief by Amicus Curiae (“friend of the court”), known familiarly as an amicus brief, allows a person or organization with a strong interest in or important views on the subject matter of a case to file a brief explaining those views and urging the court to rule in a manner consistent with those views. Amicus briefs are often filed in cases of broad public interest and are filed with the permission of the court and typically, as in this instance, with the consent of all the parties in the case. The College’s brief in this case was submitted by its governing Board of Regents, represented by attorneys Andrew Weiner and Michael Waalkes of Kostelanetz LLP and Joan Arnold and Randy Varner of Troutman Pepper Hamilton Sanders LLP.

About the American College of Tax Counsel

The American College of Tax Counsel, founded in 1981, is a nonprofit association of tax attorneys in private practice, law, business, and graduate school teaching positions, and government, who are recognized for their excellence in tax practice and their substantial contributions and commitment to the legal profession. One of the chief purposes of the College is to provide a

mechanism for input by tax attorneys into the development of U.S. tax laws and policy. A Board of nineteen Regents serves as the governing body of the College, with one regent drawn from each of the thirteen federal judicial circuits, plus two at-large positions. The Board is rounded out by the four members of its Executive Committee—President, Vice President, Secretary-Treasurer, and Immediate Past President. The College can be found online at <http://www.actonline.org>.

Pamela Lyons
American College of Tax Counsel
+1 888-549-4177
[email us here](#)

This press release can be viewed online at: <https://www.einpresswire.com/article/699733938>

EIN Presswire's priority is source transparency. We do not allow opaque clients, and our editors try to be careful about weeding out false and misleading content. As a user, if you see something we have missed, please do bring it to our attention. Your help is welcome. EIN Presswire, Everyone's Internet News Presswire™, tries to define some of the boundaries that are reasonable in today's world. Please see our Editorial Guidelines for more information.

© 1995-2024 Newsmatics Inc. All Right Reserved.