

**IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT**

DIANE ZILKA,	:	No. 31 EAL 2022
	:	
Petitioner	:	
	:	
v.	:	Petition for Allowance of Appeal
	:	from the Order of the
	:	Commonwealth Court
	:	
	:	
TAX REVIEW BOARD CITY OF	:	
PHILADELPHIA,	:	
	:	
Respondent	:	

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TAX REVIEW BOARD CITY OF	:	
PHILADELPHIA,	:	
	:	
Respondent	:	

ORDER

PER CURIAM

AND NOW, this 5th day of July, 2022, the Application for Leave to File a Post-Submission Communication is **DENIED**. The Petition for Allowance of Appeal is **GRANTED**. The issue, as stated by petitioner, is:

- (1) Petitioner, a Philadelphia resident who worked in Wilmington, Delaware, was subject to Pennsylvania Personal Income Tax (“PIT”), Philadelphia City Wage Tax (“Wage Tax”), Delaware Income Tax (“DIT”) and Wilmington Earnings Tax

("Wilmington Tax"). Pennsylvania allowed Petitioner to credit DIT paid against her PIT liability. The City of Philadelphia ("City") allowed Petitioner to credit Wilmington Tax paid against her Wage Tax liability. DIT Petitioner paid exceeded the PIT credit she was allowed ("Unapplied Credit"). The City did not allow Petitioner to apply the Unapplied Credit against the Wage Tax. The U.S. Supreme Court held the Commerce Clause of the U.S. Constitution dictates that taxing jurisdictions must grant their residents a credit for state and local income taxes paid to other state and local taxing jurisdictions. *Comptroller of Maryland v. Wynne*, 135 S. Ct. 1787 (2015) ("Wynne"). Did the Commonwealth Court err, as a matter of law, where it held it was constitutional for the City not to apply Petitioner's Unapplied Credit against her Wage Tax liability?

Justice Brobson did not participate in the consideration or decision of this matter.