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“Importance of New Hampshire v. Massachusetts Crosses State Lines”

Jennifer Karpchuk discusses “Importance of New Hampshire v. Massachusetts Crosses State Lines”

CPA Conversations Podcast

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In a podcast aired on September 7, 2021, in CPA Conversations, Jennifer Karpchuk discusses the New Hampshire v. Massachusetts case, its relevance to the tax structures of Pennsylvania and Philadelphia, and the possible effects on Pennsylvania’s “convenience of the employer” interpretation.

“During 2020, in the middle of the pandemic, Massachusetts had implemented this policy where it essentially was adopting a status quo approach to income tax purposes,” explains Karpchuk. “What would have happened prior to the pandemic, Massachusetts wanted to continue to happen even though there was a pandemic. The effect of that was that non-residents who would have been working in Massachusetts but were now working remotely from home in states outside of Massachusetts...so, for instance in New Hampshire, they were still responsible for the Massachusetts income tax despite the fact that they were performing their job fully from New Hampshire or another state.”

Karpchuk further explains that the state of New Hampshire sued Massachusetts in an attempt to get the U.S. Supreme Court to declare Massachusetts’ policy unconstitutional. The U.S. Supreme Court recently declined to hear the case; however, the case would have been, and could still be, important in terms of drawing some attention to Pennsylvania and Philadelphia’s positions on the so-called “convenience of the employer” rule or tasks.

“There are not a lot of jurisdictions that have this type of rule – there’s only a handful – but two of them are Philadelphia and Pennsylvania,” says Karpchuk. “So, in this convenience of the employer jurisdictions, essentially what it does is, if an employee is working in a work-from-home location outside of the taxing jurisdiction, if they’re doing that for the employer’s convenience – the employer wants them to work from home – then they’re not subject to the jurisdiction’s income tax. But if the employee’s instead working from home for the employee’s convenience, then they are subject to the income tax with that jurisdiction – so Pennsylvania or Philadelphia, despite the fact that they aren’t actually working at all in that particular location.”

According to Karpchuk, this is similar to what Massachusetts was doing in this policy. “The difference being that Massachusetts is theoretically a temporary policy only for the term of the pandemic, but Pennsylvania and Philadelphia, on the other hand, this is a policy that they had on the books, and they continue to have on the books,” says

“Importance of New Hampshire v. Massachusetts Crosses State Lines”, Continued

Karpchuk.

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