

Income/Franchise:

Ohio: Judge Holds for Taxpayer in Local Tax Suit Involving Pandemic-Based Telecommuting

Case No. CV21 946057, Ohio Court of Common Pleas, Cuyahoga County, Ohio (9/26/22). Referencing state law enacted in 2020 [see H.B. 197 (2020) for details on this state law] that generally treats employees who report to a temporary worksite (including those working from home) during the COVID-19 pandemic emergency period as working at their principal place of work for Ohio municipal income tax withholding purposes, an Ohio county court judge held that the City of Cleveland, Ohio and the State of Ohio in the case at hand did *not* establish a basis for jurisdiction to tax a nonresident of Ohio on income generated by work performed at her home in Pennsylvania during the pandemic. In doing so, the judge reasoned that while section 29 under Ohio H.B. 197 (2020) is *not* unconstitutional on its face, generally speaking:

URL: <https://www.legislature.ohio.gov/legislation/legislation-documents?id=GA133-HB-197>

1. Employees enjoy the protections, opportunities and benefits provided by the taxing authority when they are physically present in that municipality, and
2. The ability of an employee to communicate virtually with her office located in a municipality and to perform her job duties from an out-of-state home does not create the fiscal relation with that municipality required by due process caselaw.

Please contact us with any questions.

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