

Income/Franchise:

Missouri Circuit Court Holds that City Earnings Tax Does Not Apply to Remote Work from Outside City

Cause No. 2122-CC00713, Mo. Cir. Ct. (1/19/23). Contrary to administrative guidance issued by the City of St. Louis, Missouri (City) Collector of Revenue (Collector) in 2020 stating that with respect to its individual “Earnings Tax,” nonresident employees who have been working remotely due to the COVID-19 pandemic must be treated as working at their original, principal place of work, a Missouri circuit court (Court) held for the individual taxpayers at issue that pursuant to “very clear and unambiguous” applicable ordinances, nonresident employee work done and/or services performed must be rendered in the City to be subject to its Earnings Tax. In doing so, the Court explained that an ordinance enacted as a taxing measure must be given a strict interpretation and construed against the taxing authority and in favor of the taxpayer. The Court also commented that it seems the “sudden surge” in pandemic-related telework caused the Collector to “fear a high demand for the Earnings Tax refund and its potentially profound effect on the City’s budget” and thus it “unilaterally altered the criteria for the refunds without pursuing any kind of formal rule-making process or any amendments to the existing Earnings Tax statute or ordinance.” Under the facts, beginning in tax year 2020, despite no related changes in the Earnings Tax law, the Collector stopped issuing refunds for nonresident employee work conducted outside of the City, unless the work was done while traveling – “a distinction that was not previously made.” Please contact us with any questions.

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