

Tax Insights | November 30, 2022

## Tracking Tax News, You Need to Know



### Transition Tax Challenge Denied

The U.S. Court of Appeals for the Ninth Circuit [declined](#) to hear a constitutional challenge to the one-time transition tax on pre-2018 foreign earnings. In an order, the Ninth Circuit ruled that the tax did not exceed Congress's taxing authority and declined to rehear the case. The transition tax was created as part of the 2017 Tax Reform and applies to certain foreign earnings from years prior to 2018.

### Supreme Court Declines To Hear Whirlpool's Foreign Income Dispute

The U.S. Supreme Court [declined](#) to hear appliance manufacturer Whirlpool's [dispute](#) with the IRS over taxes on its income made by a Luxembourg subsidiary. Whirlpool petitioned the Supreme Court to ask for a review of an appeals court's ruling, arguing that the court disregarded Treasury regulations over taxes on its foreign income. The IRS argued that Whirlpool's controlled foreign corporations in Luxembourg made profits that were qualified as taxable foreign base company sales income due to the subsidiary's arrangement with a Mexican sub-manufacturer. Whirlpool argues that the income was not from sales but from manufacturing and should not be subject to tax in the U.S.

### Philadelphia DOR Rejects Claim of Double Taxation

The Philadelphia Department of Revenue (DOR) filed a [brief](#) to the Pennsylvania Supreme Court to reject a demand for a tax refund under the Philadelphia wage tax for a portion of the city and state income taxes paid while working in Delaware. A taxpayer, who lived in Philadelphia but worked in Wilmington, Delaware, disputed state and city taxes withheld for Pennsylvania and Philadelphia and demanded a credit for the Delaware tax paid to offset the Pennsylvania and Philadelphia income taxes. Philadelphia denied that claim, arguing that the fact that the resident paid higher state and local income taxes was due to Delaware's decision to impose a higher tax rate.



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