

Maine: LLC member may not claim state personal income tax credit for state business taxes paid to another state



David M. Kall | Thursday, August 16, 2018

Earlier this month, the Supreme Judicial Court of Maine addressed whether an individual Maine resident may claim a Maine income tax credit for business taxes imposed by New Hampshire on a limited liability company in which the Maine resident is a member. Siding with the State of Maine, the Court ruled in [Goggin v. State Tax Assessor](#) that a Maine resident taxpayer holding an interest in an LLC taxed as a partnership was not entitled to a refund of personal income taxes for business taxes paid to New Hampshire.

THE GOGGINS' TAX ISSUE

Maine resident Ann Goggin held a membership interest in GHK Company, LLC, which owns and leases commercial real estate in New Hampshire. During each year at issue, 2012-14, GHK Company received rental income from its property that flowed through to Ann due to the company's classification as a partnership for federal income tax purposes.

Though New Hampshire does not impose a personal income tax on earned income, it does impose a business profits tax on businesses including pass-through entities. On its federal tax return, GHK took deductions for New Hampshire business taxes that it paid. On their jointly filed state and federal income tax returns, the Goggins reported Ann's share of GHK income with such New Hampshire taxes deducted from the income. The calculation of individual Maine income is based upon the amount of federal adjusted gross income, such that no separate deduction was required for state tax purposes.

The Goggins subsequently filed a refund claim in 2016, claiming a Maine personal income tax credit for Ann's share of the business taxes that GHK paid to New Hampshire. The Maine Revenue Service denied the refund claim and, through its ruling on Aug. 2, 2018, the Supreme Judicial Court of Maine ultimately affirmed that denial.

THE COURT'S DECISION

Looking to the plain language of the Maine resident income tax credit, codified as [36 M.R.S. § 5217-A](#), the court ruled the credit is available only for income tax imposed on the individual by another state. Because the New Hampshire business profits tax was imposed on GHK rather than the Goggins, the Maine resident tax credit was not available to the Goggins.

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The Supreme Judicial Court of Maine additionally rejected the Goggins' constitutional argument that denying the credit violated the commerce clause because the Maine income tax was not "fairly apportioned" among the states. The Maine resident credit for personal income taxes paid to other states satisfied constitutional guarantees, the court ruled, even if it did not cover business taxes paid to other states. The court further recognized "the established legal principle that residence in a state and the consequent enjoyment of the protection of its laws provide a basis for the taxation of individuals' income."



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Team member bio