No. 23-914

IN THE
Supreme Court of the United States

DIANE ZILKA,
Petitioner,
v.

CITY OF PHILADELPHIA, TAX REVIEW BOARD,
Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of Pennsylvania, Eastern District

BRIEF OF THE AMERICAN COLLEGE OF TAX COUNSEL AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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INTEREST OF THE *AMICUS*

The American College of Tax Counsel (the "College") respectfully submits this brief as *amicus curiae* in support of petitioner Diane Zilka.[1]

The College is a nonprofit professional association of tax lawyers in private practice, in law school teaching positions, and in government, who are recognized for their excellence in tax practice and for their substantial contributions and commitment to the profession. The purposes of the College are:

- To foster and recognize the excellence of its members and to elevate standards in the practice of the profession of tax law;
- To stimulate development of skills and knowledge through participation in continuing legal education programs and seminars;
- To provide additional mechanisms for input by tax professionals in development of tax laws and policy; and
- To facilitate scholarly discussion and examination of tax policy issues.

The College is composed of approximately 700 Fellows recognized for their outstanding reputations

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[1] Pursuant to Rule 37.6, counsel for *amicus curiae* states that no counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae*, its members, or its counsel made a monetary contribution to its preparation or submission. Pursuant to Rule 37.2, counsel for the College provided timely notice of the College's intent to file this brief.

and contributions to the field of tax law and is governed by a Board of Regents consisting of one Regent from each federal judicial circuit, two Regents at large, the Officers of the College, and the Immediate Past President of the College.

This *amicus* brief is submitted by the College's Board of Regents and does not necessarily reflect the views of all members of the College, including those who are government employees.[2]

SUMMARY OF THE ARGUMENT

This case presents the important issue of how the dormant Commerce Clause applies to a state tax scheme that allocates income taxing authority between the state and its localities. In *Comptroller of the Treasury of Maryland v. Wynne*, 575 U.S. 542 (2015), this Court evaluated such a tax scheme as a whole and considered the discriminatory nature of the scheme based on its practical effect. This approach was essential to carrying out the negative command of the dormant Commerce Clause that states not jeopardize the free flow of interstate commerce by enacting taxes that favor intrastate over interstate commerce. But that has not been the approach uniformly followed by state courts, including the Pennsylvania Supreme Court in this case. This Court should take this opportunity to clarify its dormant Commerce Clause jurisprudence with respect to the thousands of local taxes throughout the Nation.

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[2] Larry A. Campagna, Immediate Past President of the College, and David G. Shapiro, member of the Board of Regents, abstained from the decision of the Board of Regents to prepare and file this brief, and did not participate in the preparation or review of this brief.

At issue is a tax scheme comprised of a Philadelphia wage tax and Pennsylvania income tax. Philadelphia imposes a wage tax of 3.922% on Philadelphia residents and 3.49% on commuters working in Philadelphia and residing elsewhere. Pennsylvania imposes an income tax of 3.07% on residents and a 3.07% tax on non-residents with respect to their Pennsylvania-sourced income. The Philadelphia tax scheme allows a credit for taxes paid to other localities and the Pennsylvania tax allows a credit for taxes paid to other states, but the Philadelphia wage tax does not allow a credit for taxes paid to other states, even though the amounts paid to other states exceed the amount used to offset the Pennsylvania income tax. The Pennsylvania Supreme Court considered the Philadelphia tax in isolation and therefore disregarded the resulting discrimination against interstate commerce by depriving residents who work outside Pennsylvania full credit of the taxes paid in other states. The decision of the Pennsylvania Supreme Court is contrary to *Wynne* and the dormant Commerce Clause.

The College encourages the Court to grant the Petition for a Writ of Certiorari ("Petition") to resolve the inconsistent application of the dormant Commerce Clause to local taxes and ensure that discriminatory state taxes at the local level are not a significant impediment to interstate commerce.

ARGUMENT

I. THE PENNSYLVANIA SUPREME COURT MISINTERPRETED AND MISAPPLIED *WYNNE*

1. The Commerce Clause grants Congress the power to "regulate Commerce . . . among the several states." U.S. CONST. art. 1, § 8, cl. 3. This grant of power reflects "a central concern of the Framers . . . that in order to succeed, the new Union would have to avoid the tendencies towards economic Balkanization that had plagued relations among the Colonies and later among the States under the Articles of Confederation." *Hughes v. Oklahoma*, 441 U.S. 322, 325–26 (1979). This Court has long read into the Commerce Clause "a further negative command, known as the dormant Commerce Clause" which prohibits "certain state taxation even when Congress has failed to legislate on the subject." *Okla. Tax Comm'n v. Jefferson Lines, Inc.*, 514 U.S. 175, 179 (1995).

Under the dormant Commerce Clause, a state may not "impose a tax which discriminates against interstate commerce either by providing a direct commercial advantage to local business, or by subjecting interstate commerce to the burden of 'multiple taxation.'" *Northwestern States Portland Cement Co. v. Minnesota*, 358 U.S. 450, 458 (1959); *see Jefferson Lines, Inc.*, 514 U.S. at 179–80 (describing "[t]he [dormant] Commerce Clause's purpose of preventing a State from retreating into economic isolation or jeopardizing the welfare of the Nation as a whole, as it would do if it were free to place burdens on the flow of commerce across its borders that commerce wholly within those borders would not

bear."). In *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977), the Court set out the modern four-factor test, requiring that a tax must be: (1) "applied to an activity with a substantial nexus with the taxing State;" (2) be "fairly apportioned;" (3) "not discriminate against interstate commerce;" and (4) be "fairly related to the services provided by the State." *Id.* at 279.

It is well settled that the dormant Commerce Clause applies equally to local actions as it does to state actions. In *Nippert v. City of Richmond*, 327 U.S. 416 (1946), and the so-called "drummer cases," the Court recognized the potential for local taxes to impact interstate commerce. *See, e.g., Robbins v. Shelby Cty. Taxing Dist.*, 120 U.S. 489, 498 (1887). Indeed, it noted that "[p]rovincial interests and local political power are at their maximum weight in bringing about acceptance of . . . the very kind of barrier the commerce clause was put in the fundamental law to guard against." *Nippert*, 327 U.S. at 434. Accordingly, the Court instructed that "state or municipal legislative bodies in framing their taxing measures to reach interstate commerce shall be at pain to do so in a manner which avoids the evils forbidden by the commerce clause and puts that commerce actually on a plane of equality with local trade in local taxation." *Id.*

Similarly, the Court stated in *Associated Industries of Missouri v. Lohman*, 511 U.S. 641 (1994), that "'[a] State (or one of its political subdivisions) may not avoid the strictures of the Commerce Clause by curtailing the movements of articles of commerce through subdivisions of the State, rather than through the State itself.'" *Id.* at 651 (quoting *Fort Gratiot Sanitary Landfill, Inc. v. Mich. Dept. of Nat. Res.*, 505

U.S. 353, 361 (1992)). "The central rationale for the rule against discrimination is to prohibit state or municipal laws whose object is local economic protectionism, laws that would excite those jealousies and retaliatory measures the Constitution was designed to prevent." *C&A Carbone, Inc. v. Clarkstown*, 511 U.S. 383, 390 (1994). This Court "interpret[s] the Commerce Clause to invalidate local laws that impose commercial barriers or discriminate against an article of commerce by reason of its origin or destination out of state." *Id.*

2. Nearly a decade ago, this Court held in *Comptroller of the Treasury of Maryland v. Wynne*, 575 U.S. 542 (2015), that a system of state and local taxes violated the dormant Commerce Clause because, taken as a whole, it discriminated against interstate commerce. The Pennsylvania Supreme Court in this case misapplied *Wynne* and, in doing so, reflects and exacerbates uncertainty regarding the application of the dormant Commerce Clause to local taxes.

The Maryland scheme at issue in *Wynne* consisted of both a "state tax" and a "county tax" on residents' full income and a "state tax" and "special nonresident tax" on nonresidents' Maryland income. State taxes paid to another state were creditable against the Maryland "state tax," but not against the "county tax." *Id.* at 546. Accordingly, "part of the income that a Maryland resident earns outside the State may be taxed twice." *Id.* Two principles guided the Court's analysis.

First, the Court recognized that "we must evaluate the Maryland income tax scheme *as a whole*." *Id.* at 564 n.8 (emphasis added). It explained that "[f]or

Commerce Clause purposes, it is immaterial that Maryland assigns different labels (*i.e.*, 'county tax' and 'special nonresident tax') to these taxes," and "[i]f state labels controlled, a state would always be free to tax domestic, inbound, and outbound income at discriminatory rates simply by attaching different labels." *Id.* The dormant Commerce Clause requires treating substantially similar taxes – *i.e.,* income taxes – together regardless of whether they are imposed at the state level, the local level or both.

Indeed, this aggregate approach is a logical consequence of our dual-sovereign system of government. The Constitution does not recognize local governments as independent sovereigns. On the contrary, the Tenth Amendment provides that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by the States, are reserved to the States, respectively, or to the people." U.S. CONST. amend. X. Succinctly put, "[o]urs is a 'dual system of government . . . which has no place for sovereign cities." *Community Commc'n Co. v. Boulder*, 455 U.S. 40, 53 (1982) (quoting *Parker v. Brown*, 317 U.S. 341, 351 (1943)); *see New York v. United States*, 505 U.S. 144, 181 (1992) ("[T]he Constitution divides authority between federal and state governments for the protection of individuals."); THE FEDERALIST No. 51 (James Madison) ("In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments."). Local governments "owe their origin to, and derive their powers and rights wholly from, the [State] legislature." *Atkin v. Kansas*, 191 U.S. 207, 221 (1903) (quoting *Clinton v. Cedar Rapids & Mo. River R. Co.*, 24 Iowa 455, 475 (1868));

see also Community Commc'n, 455 U.S. at 53–54. It follows that, in applying the dormant Commerce Clause to a state's income tax scheme, state and local taxes "must be considered as one." *Wynne*, 575 U.S. at 565 n.8.

Second, the Court considered the discriminatory nature of the tax scheme based on its practical effect on interstate commerce. The Court likened Maryland's tax scheme to the unconstitutional state taxes in *J.D. Adams Manufacturing Co. v. Storen*, 304 U.S. 307 (1938), *Gwin, White & Prince, Inc. v. Henneford*, 305 U.S. 434 (1939), and *Central Greyhound Lines, Inc. v. Mealey*, 334 U.S. 653 (1948), levied on corporations for out-of-state sales or services without allowing a credit against taxes paid to other states. The Court stated as an initial matter that "we see no reason why income earned by individuals should be treated less favorably." *Wynne*, 575 U.S. at 545. In each case, the tax "discriminates against interstate commerce, since it imposes upon it, merely because interstate commerce is being done, the risk of a multiple burden to which local commerce is not exposed." *Gwin, White*, 305 U.S. at 439; *see J.D. Adams*, 304 U.S. at 311 ("Interstate commerce would thus be subject to the risk of a double tax burden to which interstate commerce is not exposed, and which the commerce clause forbids."); *Central Greyhound*, 334 U.S. at 662 (concluding that a state tax on unapportioned receipts from bus routes crossing into other states imposed an "unfair burden" on interstate commerce). The same was true of Maryland's tax scheme. *Wynne*, 575 U.S. at 551, 565.

The Court's reasoning in *Wynne* rests on fundamental dormant Commerce Clause principles dating back over a century. *See, e.g., Trinova Corp. v.*

Mich. Dep't of Treasury, 498 U.S. 358, 373 (1991) ("We seek to avoid formalism and to rely upon a 'consistent and rational method of inquiry [focusing on] the practical effect of a challenged tax.'") (quoting *Mobil Oil Corp. v. Commissioner of Taxes of Vt.*, 445 U.S. 424, 443 (1980)); *Complete Auto*, 430 U.S. at 279 (characterizing the Court's dormant Commerce Clause precedents as considering "not the formal language of the tax statute but rather its practical effect"); *Wisconsin v. J. C. Penney Co.*, 311 U.S. 435, 443 (1940) ("But the descriptive pigeon-hole into which a state court puts a tax is of no moment in determining the constitutional significance of the exaction."); *Galveston, Harrisburg & San Antonio Ry. Co. v. Texas*, 210 U.S. 217, 227 (1908) (Holmes, J.) ("Neither the state courts nor the legislatures, by giving the tax a particular name or by the use of some form of words, can take away our duty to consider its nature and effect.").

3. The Pennsylvania Supreme Court ignored these principles. It characterized *Wynne* as "sanction[ing] an *ad hoc* approach, under which a 'local' income tax may be deemed indistinguishable from the corresponding state's income tax only if, like Maryland's 'county' tax, it is actually a duplicative state tax in disguise." *Zilka v. Tax Review Bd. City of Philadelphia*, 304 A.3d 1153, 1167 (Pa. 2023). To be sure, the Court in *Wynne* stated that the "county tax" was imposed and collected at the state level and thus, "[d]espite the names that Maryland has assigned to these taxes, both are State taxes." 575 U.S. at 546. But that observation has no bearing on the Court's reasoning that the overall scheme was unconstitutional because it discriminates against interstate commerce. Had the "county tax" in the

Court's estimation been true to its name, the result in *Wynne* would have been the same.

By analyzing the Philadelphia tax in isolation, the Pennsylvania Supreme Court ignored *Wynne*'s instruction to look to the tax scheme as a whole. In doing so, the Pennsylvania Supreme Court saw only half of the picture: a tax that mitigated double taxation by providing a credit for local taxes paid in other states. It ignored the systematic non-crediting of state tax paid to other states.[3] The discriminatory effect of the scheme only becomes apparent when accounting for both the State's and the City's choices of applicable tax rates and the failure to allow for a credit against local tax for tax paid to another state. The interplay of these features virtually guarantees that Philadelphia residents earning out-of-state wages will face higher tax burdens than Philadelphia residents. That is because most state income tax rates are higher than local income tax rates, if there is a local tax at all. The inverse is true for Philadelphia

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[3] While the Philadelphia municipal code does not allow a credit for tax paid to out-of-state municipalities, *see* Phila. Code § 19-1506, the Philadelphia Department of Revenue responded to *Wynne*, which held unconstitutional a similar tax scheme, by initiating a practice of so-called "*Wynne* refunds" in the amount of tax paid to out-of-state municipalities. Jim Saksa, *Wage tax relief for Philadelphians working out of state expected, scope of budget impact unknown*, WHYY (May 11, 2016), https://whyy.org/articles/wage-tax-relief-for-philadelphians-working-out-of-state-expected-scope-of-budget-impact-unknown/. A limited credit does not, however, correct the constitutional defect.

residents.[4] Thus, they pay high state tax on wages earned outside of state and also a high local tax on those wages by virtue of being Philadelphia residents. The tax scheme prevents Philadelphia residents from claiming full credit for out-of-state taxes paid. The Pennsylvania Supreme Court, by disaggregating State and local taxes in analyzing the effect on interstate commerce, permitted what this Court sought to avoid, leaving states "free to tax domestic, inbound, and outbound income at discriminatory rates simply by attaching different labels." *Id.* at 564 n.8.

Moreover, the ad hoc approach followed by the Pennsylvania Supreme Court would rest the application of the dormant Commerce Clause on an arbitrary and unworkable standard of whether a local tax is really a "state tax in disguise." *Zilka*, 304 A.3d at 1167. The Pennsylvania Supreme Court's attempt to distinguish the Philadelphia tax from the "county tax" in *Wynne* demonstrates the flaw of this approach. In both cases, tax rates were set by the relevant political subdivision (subject to state-imposed caps and pursuant to state legislation) and proceeds were collected solely for the benefit of the political subdivision (though by different agents). The differences are a matter of form rather than substance.

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[4] Philadelphia's outlier status has a long history. Philadelphia was the first city in the Nation to impose a wage tax, doing so in 1939. *See* The Economy League of Greater Philadelphia, *The Sterling Act: A Brief History* (Mar. 1999), https://www.economyleague.org/sites/default/files/legacy/783716581668902685-the-sterling-act-a-brief-history.pdf.

The Pennsylvania Supreme Court further ignored the practical effect of the Philadelphia tax not crediting other states' taxes on wages earned outside Pennsylvania. As explained above, because Philadelphia does not allow for a credit for taxes paid to other states, Philadelphia residents earning wages outside Pennsylvania are near-guaranteed to face double taxation on some portion of their earnings. Philadelphia residents earning wages in Pennsylvania do not face that risk. The double taxation on out-of-state wages is not attributable to the particular interaction between two tax schemes; instead, it is inherent in how Philadelphia's failure to allow for the credit of income taxes paid to other states interacts with Pennsylvania and Philadelphia tax rates.

Consider the hypothetical of a Philadelphian who works for an employer in Greenwich, Connecticut.[5] Assume she earns a salary of $100,000 a year and is unmarried. Greenwich does not tax her earnings. But Connecticut makes up for that, progressively levying income tax on nonresidents' in-state income on rates up to 6.99%. *See* Conn. Gen. Stat. § 12-700(a)(9). In 2014, our theoretical commuter would pay tax to Connecticut at a 5.5% rate on $100,000. *Id.* § 12-700(a)(8). That $5,500 in Connecticut tax would be creditable against the $3,070 (3.07% rate) in tax imposed by Pennsylvania. But, similarly to Ms. Zilka, the remaining $2,430 tax paid to Connecticut would not be creditable against the $3,922 (3.922% rate) in

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[5] Under current law in Connecticut, this hypothetical commuter would be required to pay Connecticut income tax under the convenience of the employer rule, even if only working remotely from Philadelphia. *See* Conn. Gen. Stat. § 12-711(b)(2)(C).

tax imposed by Philadelphia. In other words, our commuter would bear a total tax burden of greater magnitude ($9,422) than that borne by either Ms. Zilka (who at least received a partial credit against wage tax for her Wilmington tax paid) or a similarly situated Philadelphia resident working in Philadelphia ($6,992 in total tax on the same amount of wages).

Faced with such disproportionate tax burdens, why would any rational Philadelphian work in Connecticut or Delaware (or any state without a reciprocal agreement with Pennsylvania)[6] if they could find comparable employment in-state? It is simply more expensive to work across state lines. The Philadelphia tax creates this dilemma, distorting the labor market and precluding tax-neutral economic choices by employees and employers. *Cf. Bos. Stock Exch. v. State Tax Comm'n*, 429 U.S. 318, 330–31 (1977) (concluding that differential rates of state transfer tax for stock sales made in-state or out-of-state improperly incentivized taxpayers to engage in-state economic activity). The placement of tax roadblocks in front of the free movement of labor and

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[6] Pennsylvania currently has reciprocal agreements in place with Indiana, Maryland, New Jersey, Ohio, Virginia, and West Virginia, which provide that those states will not tax Pennsylvania residents on employee compensation earned in that state. See Jared Walczak, *Do Unto Others: The Case for State Income Tax Reciprocity*, Tax Foundation (Nov. 16, 2022), https://taxfoundation.org/research/all/state/state-reciprocity-agreements/. Absent the reciprocity agreement with neighboring New Jersey, Philadelphia residents working in New Jersey would be subject to New Jersey tax on nonresidents' in-state income up to 10.75%, which would apparently not be allowed as a credit against Philadelphia tax. *See* N.J. Stat. Ann. § 54A:2-1(a)(5).

capital across state lines cannot be squared with the negative command of the dormant Commerce Clause that the roads of interstate commerce stay open.

As discussed in the Petition, state courts are uncertain and in conflict over the proper application of the dormant Commerce Clause. *Compare Zilka*, 304 A.3d at 1167–70, *with Matkovich v. CSX Transportation Inc.*, 793 S.E.2d 888, 896–97 (W. Va. 2017), *and Gen. Motors Corp. v. City & County of Denver*, 990 P.2d 59, 69 (Colo. 1999). It is imperative that the Court clarify the law as it applies to literally thousands of local taxes.

II. THE PHILADELPHIA TAX VIOLATES THE DORMANT COMMERCE CLAUSE

The Court in *Wynne* explained that double taxation alone does not violate the dormant Commerce Clause but must be the product of a tax scheme that inherently discriminates against instate commerce. 575 U.S. at 562. That is the case here.

"'[D]iscrimination' simply means differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter." *Oregon Waste Sys., Inc. v. Dep't of Envtl. Quality*, 511 U.S. 93, 99 (1994). The underlying principle is economic neutrality, *i.e.*, that "an individual faced with the choice of an in-state or out-of-state purchase [or place of employment] could make that choice without regard to the tax consequences." *Bos. Stock Exch.*, 429 U.S. at 332; *see Am. Trucking Ass'ns v. Scheiner*, 483 U.S. 266, 283 (1987) ("[T]he Commerce Clause is not offended when state boundaries are economically irrelevant . . . [or] a neutral factor in economic decisionmaking."); *Westinghouse Elec. Corp. v. Tully*, 466 U.S. 388, 406

(1984) ("Whether the discriminatory tax diverts new business into the State or merely prevents current business from being diverted elsewhere, it is still a discriminatory tax that forecloses tax-neutral decisions and creates an advantage for firms operating in New York by placing a discriminatory burden on commerce to its sister States.") (cleaned up); *Baldwin v. G.A.F. Seelig, Inc.*, 294 U.S. 511, 527 (1935) ("Neither the power to tax nor the police power may be used by the state of destination with the aim and effect of establishing an economic barrier against competition with another state or the labor of its residents.").

The Philadelphia tax and Pennsylvania tax, viewed in the aggregate, have a discriminatory effect. The failure of Philadelphia to allow a credit for income taxes paid to other states, coupled with the relatively high Philadelphia tax and low Pennsylvania tax, discourages Philadelphia residents from working out of state. Ms. Zilka is taxed at a rate almost 2% higher because she works in Wilmington, Delaware, than is her neighbor who works in Philadelphia, as demonstrated by the following example using average tax rates in 2014, one of the tax years in issue:

Income Tax Impact on a Philadelphia Resident
Taxable Income of $100

	Working in Philadelphia	Working in Wilmington
Philadelphia Rate	3.922%	3.922%
Philadelphia Tax	$3.92	$3.92
Pennsylvania Rate	3.07%	3.07%
Pennsylvania Tax	$3.07	$3.07

Wilmington Rate	N/A	1.25%
Wilmington Tax	N/A	$1.25
Delaware Rate	N/A	5.00%
Delaware Tax	N/A	$5.00
TOTAL TAX PRIOR TO CREDITS	$6.99	$13.24
Less State Credit	N/A	($3.07)
Less Local Credit	N/A	(1.25)
TOTAL TAX AFTER CREDITS	$6.99	$8.92

The tax scheme systematically imposes a higher burden on individuals who choose to work across state lines. *See also supra* 9–13.

The "internal consistency test," according to the Court in *Wynne*, "helps courts identify tax schemes that discriminate against interstate commerce." 575 U.S. at 562. That test "looks to the structure of the tax at issue to see whether its identical application by every State in the Union would place interstate commerce at a disadvantage as compared with commerce intrastate." *Jefferson Lines*, 514 U.S. at 185. The scheme in this case violates internal consistency because a taxpayer who lives outside the local taxing jurisdiction of another state and works in Philadelphia would pay a commuter tax of 3.49%, which is less than the wage tax of 3.922% on Philadelphia residents. Moreover, when taking into account Philadelphia's comparatively high local tax rate and Pennsylvania's comparatively low state tax rate, the scheme discriminates against interstate commerce by not allowing as a practical matter full credit for tax paid to other states. The dormant

Commerce Clause does not apply in a vacuum; rather, the practical effect of the tax scheme is what matters. *See, e.g., Nippert*, 327 U.S. at 429–30 (finding discrimination based on "the cumulative effect, practically speaking, of flat municipal taxes laid in succession upon the iterant merchant as he passes from town to town").

The Philadelphia tax is a restriction of economic liberty, which is the companion evil to economic isolationism. Philadelphia residents looking to work in another state face higher tax burdens than they would if they work in Philadelphia, which directly impacts their economic liberty to participate in interstate commerce. Employers in other states are also affected. The Philadelphia tax interferes with the free flow of labor and talent. Worse, those employers have no political recourse, except perhaps to pressure their states to enact retaliatory-type measures leading to the exact economic battles the Commerce Clause was designed to stop.

As a model for other localities, the fundamental principles involved in this case apply to all types of taxes and taxpayers. There are over 90,000 local government entities in the United States, including counties, municipalities, townships, school districts and special districts.[7] Some have been granted taxing power by their state governments. This taxing power can take the form of residency-based taxes, source-based taxes, or both. Absent guidance from this Court, the Nation risks a sticky tax landscape that weighs down interstate commerce to the detriment of

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[7] U.S. Census Bureau, *2022 Census of Governments*, https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html.

individuals and states. This Court should grant certiorari to clarify the dormant Commerce Clause and its application to local taxes.

CONCLUSION

The College respectfully requests that the Court grant the Petition.

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