

# Supreme Court Bungles States Rights Issue

The U.S. Supreme Court yesterday denied a to hear a case brought by New Hampshire in a complaint against Massachusetts where that state has reached out to tax of remote workers during the COVID-19 pandemic.

Massachusetts has reached out to tax workers who normally work in Massachusetts but who because of the COVID-19 pandemic were working in other states would still be required to pay Massachusetts income tax.

The State of New Hampshire asked the Court to enjoin Massachusetts from enforcing such tax and requiring Massachusetts to refund the payments (plus interest) that it collected from nonresidents.

New Hampshire argued that Massachusetts reaching across state borders was unconstitutional under the Commerce Clause and the Due Process Clause of the U.S. Constitution.

The Supreme Court did not explain its decision not to take up the case, but, in its reply to New Hampshire's motion, Massachusetts had argued that New Hampshire lacked standing to sue because it did not, as a state, suffer an injury, and that it did not state a viable Commerce Clause or due process claim. Massachusetts generally described its regulation as maintaining the status quo.

The U.S. Justice Department filed a motion with the Court in May that urged the Court to dismiss the case, and described it as "not an appropriate case for the exercise of this Court's original jurisdiction" (Brief for the United States as Amicus Curiae, p. 4), especially because the issue could be litigated by New Hampshire residents who were subject to the Massachusetts income tax.

The action of the Court has huge implications that will allow other states such as California which has always been aggressive in asserting its rights to tax individuals whether living within the state or not. The biggest issue will be for those who have decided to move elsewhere but still conduct business within other states.

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