

SCOTUS to Decide If You Can Be Taxed on Income You Haven't Yet Received

June 29, 2023 - This past Monday the US Supreme Court agreed to hear a case that will determine if local, state and the federal governments can levy taxes on income that has not yet been received. Given lower court rulings on this matter, the decision to hear the case is likely good news for American taxpayers.

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The case being heard involves the 2017 revision to federal income tax laws and a Washington State couple that received a tax bill for nearly \$15,000. The 2017 law included a provision that levied a tax on anyone with a 10% or greater stake in a profitable foreign company even if they hadn't actually received any income by selling their stake in that company.

Typically, stockholders in companies are only taxed when they sell their stock. If they make a profit, they have to pay taxes - this is known as "realized gains". And if they lose money, they may be able to write-off their losses. The 2017 law upends that practice by levying a tax on "unrealized gains."

The court will decide if the law is Constitutional under the 16th Amendment. The 9th Circuit Court of Appeals (the most reversed court in the country) decided the case for the government. It is the first court the history of the US to allow citizens to be taxed on unrealized gains. The fact that the Supreme Court has agreed to hear the case means that at least four of the justices currently on the court are questioning that decision.

This is probably the most important tax case to come before the court this century. If SCOTUS agrees that unrealized gains can be taxed, that would have huge ramifications for stockholders and homeowners. It would mean that you could be taxed on any unrealized gains in your property value and would likely force millions of homeowners to sell their homes. It would also make long term investments in stocks much more difficult.

The case is known as Moore v. US. It will be heard during the Supreme Court's next session which starts in October.
by Jim Malmberg

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