



Maryland General Assembly

Comptroller of Maryland Ways and Means Briefing

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Wynne Case & LIT Reserve Account

Fact Sheet and Various Impacts of the “Wynne Case”

Maryland State Comptroller of the Treasury v. Brian Wynne, et ux.

The Challenge:

- The Wynnes have challenged the current statute governing the out-of-state credit for the personal income tax – the assertion is that current statute is in violation of the U.S. Constitution Commerce Clause

Current Law:

- A resident taxpayer with income (wage or business) in another state is permitted a credit against their Maryland income tax equal to the lesser of:
 - the tax paid to the other state for that income, or
 - the amount of tax that would have been paid at **Maryland’s State tax rate** on that income (the calculation excludes the local tax rate)
- The credit may be taken only against the taxpayer’s **Maryland State Tax** (excludes local tax)

Case Status:

- The Wynnes have won the case at the highest State court – Maryland Court of Appeals – decision is stayed upon petition to Supreme Court of the United States (SCOTUS)
- The Maryland Attorney General, in October 2013, petitioned the SCOTUS to hear the case
- SCOTUS has not denied petition – has invited U.S. Solicitor General (USSG) to file a brief
 - SCOTUS may not receive brief from USSG until June 2014 or later
 - If SCOTUS accepts petition, case likely argued in Fall of 2014 and decision likely December 2014/January 2015 (just before tax processing season and long after relevant work completed)
 - 2014 filing season (tax year 2013), at least through April 15, will be unaffected

Statutory Impact:

- If decision ultimately goes against the State, statutory changes may be required, including:
 - The calculation of the credit (aligning the statute with the decision), and/or
 - The credit’s applicability to local income tax (aligning the statute with the decision), and/or
 - The application of the credit (how much from State tax and how much from local tax)

Fiscal Impact:

- The Bureau of Revenue Estimates estimates that the value of taxpayers credits will increase by approximately \$42 million per tax year (does not include interest for back years)
- Statute of limitations allows taxpayers to file amended returns for three prior tax years (tax years 2011 through 2013) – many taxpayers have filed protective claims which supersede the statute of limitations and begins the calculation of interest – simple interest at 13% per year would be owed for protective claims
- Total estimated fiscal impact including interest, assuming a high level of amended returns and protective claims are filed and granted, is \$241 million (\$190 million for tax and \$51 million for interest)

Comptroller’s Administrative Impact:

- No change to current processing until SCOTUS either denies petition or adjudicates
- Were preparing to process current tax year returns (tax year 2013) according to pre or post decision
- Protective claims and amended returns a manual process – may use temporary workers to expedite

Estimated Impact of Wynne Case by Subdivision

Tax Year 2011

Tax Year 2010

Tax Year 2009

Subdivision	Tax Year 2011			Tax Year 2010			Tax Year 2009		
	Taxpayers With Out of State Credit	Local Impact of Wynne	Percent of Total PIT Collections	Taxpayers With Out of State Credit	Local Impact of Wynne	Percent of Total PIT Collections	Taxpayers With Out of State Credit	Local Impact of Wynne	Percent of Total PIT Collections
Allegany	308	68,363	0.3%	326	77,662	0.3%	302	68,356	0.3%
Anne Arundel	3,748	3,559,391	1.0%	3,570	3,958,642	1.1%	3,304	3,527,444	1.1%
Baltimore County	4,977	4,518,510	0.9%	4,722	4,392,523	0.9%	4,384	4,774,437	1.0%
Baltimore City	2,413	1,390,734	0.6%	2,273	1,254,077	0.6%	2,075	1,221,851	0.6%
Calvert	414	287,930	0.5%	442	306,469	0.5%	403	370,310	0.7%
Caroline County	956	65,429	0.6%	968	79,538	0.8%	896	69,934	0.7%
Carroll	836	230,247	0.2%	745	182,065	0.2%	760	198,801	0.2%
Cecil	9,485	1,296,394	2.8%	9,598	1,280,430	2.8%	9,915	1,358,313	3.1%
Charles	569	230,576	0.3%	555	195,809	0.2%	499	169,411	0.2%
Dorchester	474	43,554	0.4%	476	58,300	0.6%	469	36,654	0.4%
Frederick	1,586	919,474	0.6%	1,490	978,438	0.6%	1,380	822,295	0.6%
Garrett	267	113,953	1.1%	254	118,333	1.2%	226	106,783	1.1%
Harford	2,074	575,955	0.3%	1,936	626,098	0.4%	1,865	555,102	0.4%
Howard	2,586	2,393,428	0.8%	2,510	2,479,515	0.8%	2,392	2,263,872	0.8%
Kent	715	155,136	1.6%	726	163,512	1.7%	718	221,422	2.5%
Montgomery	14,934	24,206,230	2.1%	14,752	25,041,525	2.3%	13,796	23,243,303	2.4%
Prince George's	3,126	1,392,954	0.3%	2,959	1,274,758	0.3%	2,647	1,021,141	0.3%
Queen Anne's	792	327,174	1.0%	772	254,717	0.8%	704	268,312	0.9%
St. Mary's	450	143,470	0.2%	410	145,768	0.2%	370	154,939	0.3%
Somerset	238	10,516	0.2%	235	14,400	0.2%	224	8,890	0.1%
Talbot	577	342,956	1.5%	567	363,744	1.7%	518	345,510	1.7%
Washington	773	154,681	0.2%	777	204,497	0.3%	672	156,208	0.3%
Wicomico	2,851	222,813	0.6%	2,817	250,955	0.6%	2,820	273,970	0.7%
Worcester	1,606	267,750	2.4%	1,597	200,178	1.8%	1,555	227,751	2.2%
Total	56,755	42,917,617	1.1%	55,477	43,901,954	1.2%	52,894	41,465,011	1.2%