



Comptroller v. Wynne

Discussion of Estimated Financial Impacts to Local Governments

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Chronological Case Milestones

2007 – Comptroller rejects the Wynnes' 2006 income tax return and issues assessment as a result of out-of-state credit claimed outside of statutory requirements

October 2008 – Hearings & Appeals section of Comptroller's office upholds the assessment

December 2009 – Maryland Tax Court rejects Wynne argument that application of out-of-state credit violated the Commerce Clause

June 2011 – Circuit Court of Howard County reverses Tax Court decision, rules in favor of the Wynnes

September 2011 – Maryland Court of Appeals hears appeal of prior decision

January 2013 – Maryland Court of Appeals Rules upholds Circuit Court of Howard County ruling in favor of the Wynnes

May 2014 – Petition to Supreme Court of the United States (SCOTUS) granted

November 2014 – Argued before SCOTUS

May 2015 – SCOTUS affirms prior decision, the Wynnes win

At Issue

- Application of out-of-state credit on Maryland resident tax return (TG § 10-703)

Pre-Wynne

- Gross Maryland and local tax calculated on total income (includes income derived from any location)
- Available out-of-state credit limited to either amount of tax paid to other state or tax that would have been paid to that state at Maryland's rate (effectively approx. 2.00% to 6.25%, dependent on year)
- Available out-of-state credit only allowed against State tax

Post-Wynne

- Gross Maryland and local tax calculated on total income (includes income derived from any location)
- Available out-of-state credit limited to either amount of tax paid to other state or tax that would have been paid to that state at Maryland and local government **combined rate** (effectively approx. 3.25% to 9.45%, dependent on year)
- Available out-of-state credit **allowed against State and local tax**

Who's Affected

- **Resident Taxpayers**

- Taxpayers with out-of-state credits
 - Business income earned out-of-state
 - Wages earned out-of-state from non-reciprocal states (excludes wages earned in D.C., VA, & WV)

- **Comptroller's Office**

- Review and process more than 10,000 protective claims
- Review and process possibly large amount of amended tax returns (up to 50,000) – dependent on how many file, could be large given publicity case has attracted
- Adds complexity to local distributions
- May receive many returns ineligible for the credit or for which no adjustment is warranted

- **Local Governments**

- Affects counties and municipalities
- Large impact for "old" tax years and estimated \$40 million impact on ongoing basis

- **Attorney General**

- Potential for additional/related litigation

Protective Claims Filed With Comptroller - Through Spring 2015

	Tax Year 2007		Tax Year 2008		Tax Year 2009		Tax Year 2010		Tax Year 2011		Tax Year 2012		Tax Year 2013	
	Req Refund		Req Refund		Req Refund		Req Refund		Req Refund		Req Refund		Req Refund	
	#	Amount	#	Amount	#	Amount	#	Amount	#	Amount	#	Amount	#	Amount
ALLEGHANY	-	-	-	-	#N/A	#N/A	-	-	#N/A	#N/A	-	-	-	-
ANNE ARUNDEL	31	345,184	113	1,485,549	126	728,829	126	831,053	81	636,096	31	219,543	#N/A	#N/A
BALTIMORE CITY	#N/A	#N/A	53	395,385	51	385,931	62	384,296	39	175,488	#N/A	#N/A	#N/A	#N/A
BALTIMORE COUNTY	65	609,158	241	2,953,161	214	7,078,869	222	1,406,542	155	1,435,273	73	485,413	#N/A	#N/A
CALVERT	-	-	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	-	-
CAROLINE	-	-	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	-	-	-	-
CARROLL	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
CECIL	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	32	189,807	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
CHARLES	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	-	-
DORCHESTER	-	-	-	-	-	-	-	-	#N/A	#N/A	-	-	-	-
FREDERICK	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
GARRETT	-	-	#N/A	#N/A	-	-	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	-	-
HARFORD	#N/A	#N/A	30	106,755	32	136,306	34	183,564	31	139,586	#N/A	#N/A	#N/A	#N/A
HOWARD	#N/A	#N/A	121	1,083,671	80	600,845	89	674,860	43	691,425	#N/A	#N/A	#N/A	#N/A
KENT	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
MONTGOMERY	385	5,608,337	1,449	14,518,139	1,598	17,680,641	1,588	16,843,310	822	9,320,450	313	4,224,912	88	1,150,449
PRINCE GEORGE'S	#N/A	#N/A	31	400,088	32	239,422	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
QUEEN ANNE'S	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	-	-
ST MARY'S	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	-	-
SOMERSET	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TALBOT	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
WASHINGTON	-	-	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
WICOMICO	-	-	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	-	-	#N/A	#N/A
WORCESTER	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A	#N/A
TOTALS	548	7,481,741	2,159	21,779,272	2,248	27,522,046	2,298	21,531,261	1,282	13,078,862	532	5,382,338	166	1,586,627

Estimated Impact of Wynne Case by Subdivision

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%

Related General Assembly Initiatives

- Budget Reconciliation and Financing Act of 2014
 - Set annual interest rate for “Wynne” refunds at approx. 3.25%
 - contingent on FY 2015 prime rate
 - normal rate of interest for refunds is 13.00%
 - save the local governments an estimated \$40 million - \$60 million

- Budget Reconciliation and Financing Act of 2015
 - Determined how to allocate post-Wynne credit; set as contingent on Wynne loss
 - Effectively allocates revenue loss attributable to Wynne such that State is held harmless
 - Requires Wynne refunds and related interest attributable to tax years 2006 through 2014 to be paid from local income tax reserve fund
 - Effectively holds the general fund harmless, in the absence of such provision there might have been a required write-down for the budget year (FY16)
 - Requires local governments to pay back the reserve fund in 9 equal quarterly installments, beginning in FY17
 - Leaves local government FY16 budgets unaffected for prior year impacts
 - Allows additional year for planning
 - Spreads prior year impacts over several years