

Maryland Taxpayers Win Income Tax Case in Supreme Court

May 20, 2015

The U.S. Supreme Court ruled in favor of Maryland taxpayers on an income tax issue in *Comptroller of the Treasury of Maryland v. Wynne*, decided on May 18, 2015. Maryland residents file a single tax return that collects both the Maryland state income tax and any income taxes imposed by the county or the City of Baltimore. Maryland residents who have income earned and taxed in another state are eligible for a credit against their Maryland state income taxes for the lesser of the tax imposed by the other state, or the Maryland tax that would otherwise be imposed on that amount of income. In making that computation, however, Maryland has taken the position that the county income taxes are not included in that computation. The result has been that Maryland residents pay a higher rate of tax on income earned in another state. The Supreme Court held this taxing scheme unconstitutional as a violation of the “dormant” Commerce Clause.

Mr. and Mrs. Wynne were Maryland residents who owned an S corporation. The S corporation had income (and filed tax returns) in 39 states. That income passed through to the Wynnes. The Comptroller of Maryland allowed the Wynnes a tax credit against their Maryland state income tax, but not their county income tax reported on the same return. The Wynnes’ situation is typical of individuals who hold stock in an S corporation or an interest in a partnership that operates businesses in several states. In the D.C. area, this issue arises with frequency for law firm partners and others in service businesses with multiple offices nationwide.

The Supreme Court held that Maryland’s failure to allow a credit for taxes paid to other states against county taxes as well as state taxes discriminates against interstate commerce in violation of the dormant Commerce Clause. The Commerce Clause grants Congress power to “regulate Commerce . . . among the several States.” Although the Clause is framed as a positive grant of power to Congress, the Supreme Court has consistently held this language to contain a further, negative command, known as the “dormant Commerce Clause,” prohibiting certain state taxation even when Congress has failed to legislate on the subject. It is that prohibition that the Supreme Court held was violated in *Wynne*.

Maryland residents who have claimed a credit for taxes paid to other states will be able to submit a claim for refund with respect to county taxes collected on the out-of-state income. In order to claim a refund, the statute of limitations for the particular tax year needs to be open. That would generally be the case for Maryland returns filed within the past three years. Maryland has posted [FAQs](#) that include instructions on how to file a claim for refund. Affected Maryland residents should contact their return preparers for assistance in making a claim for refund.

If you have questions concerning this Alert or for more information, please contact:

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