

# Supreme Court Strikes Down Maryland's Practice of Double Taxing Out-of-State Residents

By Michelle Chapin

In *Comptroller of Treasury of Md. v. Wynne*, Maryland taxpayers received a victory when the U.S. Supreme Court struck down as unconstitutional Maryland's practice of providing only a partial rather than full tax credit against Maryland income tax for income tax paid by its residents to other states.

Generally taxpayers who earn income in more than one state are required to pay income taxes in all of the states in which income is earned and tax is imposed as well as their resident state; however, they usually receive a credit in their resident state for income taxes paid on out of state earnings so as to avoid double taxation.

Prior to this decision, Maryland residents who paid income taxes to other states would receive a credit for what they paid in Maryland income tax, but the state would not issue a credit for the portion of the income tax paid relating to the county tax and for a tax collected in some cities. This local tax is a so-called piggyback tax.

In a 5-4 decision, the Supreme Court determined that Maryland's practice violated the Commerce Clause by restricting interstate business. The Commerce Clause grants Congress the authority to regulate commerce among the states, and implicit within this power, it precludes states from discouraging interstate commerce, referred to as the dormant Commerce Clause. The Court determined that Maryland's failure to offer a credit for the county and city taxes acted as a tariff which discouraged interstate commerce. Maryland business owners with business in other states faced higher taxes than Maryland business owners whose business activities did not cross state lines.

This ruling will likely have far reaching implications for other states that similarly do not provide a full credit on taxes paid outside of the resident state.

In 2014, the Maryland legislature adopted a bill lowering the interest rate it pays on refunds from approximately 13% to rates comparable to commercial bank lending rates (approximately 3.25%) to deal with the influx of refund claims that Maryland expected to receive if it lost the Wynne case. Maryland residents who paid income taxes to other states between 2006 and 2014 should consider filing a claim for refund. The Comptroller's office is expected to issue guidance shortly on refunds in the form of Frequently Asked Questions.