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SALT WATCH

U.S. Supreme Court Decides *Wynne* Case, Rules Maryland Personal Income Tax Structure to be Unconstitutional

On May 18th, the United States Supreme Court decided in a 5-4 ruling that Maryland's personal income taxation structure violates the dormant Commerce Clause of the U.S. Constitution and is therefore unconstitutional. As a result, the *Comptroller of the Treasury of Maryland v. Wynne* case could have a profound impact on other state and local taxes across the United States.

In addition to its own State income tax, the Comptroller of Maryland also collects an additional county income tax from Maryland residents and a special nonresident tax from Maryland nonresidents. For Maryland residents, the State allows a credit for taxes paid to other jurisdictions on income earned outside of Maryland. However, this credit may not be applied against the county income tax. The Court determined that this structure discriminates against interstate commercial transactions by more heavily taxing income earned outside of Maryland.

Tax practitioners are evaluating the applicability of the *Wynne* case to existing taxing structures in other jurisdictions. For example, Ohio municipal income tax structures, some of which only allow partial income tax credits for taxes paid to other jurisdictions, have come under the microscope. Taxpayers should stay tuned to potential litigation or state and municipal tax law changes arising from this decision. Moreover, Maryland residents may be eligible to file refund claims with the State. Some estimates show that Maryland will owe over $200 million in refunds to eligible taxpayers. GBQ will provide further updates as additional information becomes available.

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