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GFOA Files Supreme Court Amicus Brief in Maryland Income Tax Case.

The GFOA joined its partner national associations on an amicus, or friend of the court, brief filed by the State and Local Legal Center before the Supreme Court in the case of Comptroller v. Wynne. In this case, the Supreme Court will determine whether the U.S. Constitution requires states to give a credit for taxes paid on income earned out-of-state.

The Wynnes of Howard County, Maryland, received S-corporation income that was generated and taxed in numerous states. While Maryland law allowed the Wynnes to receive a tax credit against their Maryland state taxes for income taxes paid to other states, it did not allow them to claim a credit against their Maryland county taxes. The Wynne's challenged Maryland law.

Maryland's highest state court held that Maryland's failure to grant a credit against Maryland's county tax violated the U.S. Constitution's dormant Commerce Clause, which denies states the power to unjustifiably discriminate against or burden interstate commerce. The Maryland Court of Appeals noted that if every state imposed a county tax without a credit, interstate commerce would be disadvantaged. Taxpayers who earn income out of state would be "systematically taxed at higher rates relative to taxpayers who earn income entirely within their home state."

The State and Local Legal Center's amicus brief challenges the Maryland Court of Appeals decision on several grounds. First, the brief argues that the power of state and local governments to tax the income of their residents, wherever earned, has been upheld repeatedly by the Supreme Court. Second, the brief maintains that the scope of the "dormant Commerce Clause" regarding individual non-resident income taxes has not been clearly defined by the court and should not now be construed to mandate credits. Third, the brief argues that taxation is a legislative matter that should not usurped by the judiciary.

The brief also discusses the difficult tax policy choices faced by state and local leaders. For example, if Maryland were required to provide a dollar-for-dollar tax credit, a neighbor with substantial out-o--state income would contribute significantly less to pay for local services than a neighbor earning the same income in-state, even though both take equal advantage of local services. To counterbalance this dollar-for-dollar tax credit, a county would need to raise some other tax, which would fall disproportionately on some other neighbor and often be more regressive. Maryland's choice to avoid these results "does not cross any constitutional line," the brief states.

Click here to read the amicus brief.

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