

Chapter 24

(Senate Bill 766)

AN ACT concerning

Local Income Tax – Overpayments ~~and~~, Underpayments, and Wynne Repayments – Local Reserve Account Repayment

FOR the purpose of requiring the Comptroller, under certain circumstances, to pay a county or municipal corporation that receives a certain underpayment of local income tax revenue a certain amount from a certain account; requiring a county or municipal corporation that receives a certain overpayment of local income tax revenue to repay a certain account in a certain manner; requiring the Comptroller, under certain circumstances, to withhold certain amounts from a county or municipal corporation’s quarterly local income tax distributions; requiring that a certain determination by the Comptroller be based on a full accounting of the income tax returns for a certain taxable year; altering the manner by which the Comptroller withholds certain amounts from certain local income tax distributions; prohibiting the Comptroller from requiring that certain counties or municipal corporations make certain reimbursement payments until a certain analysis is completed; defining a certain term; and generally relating to the distribution of certain local income tax revenue.

BY adding to

Article – Tax – General
Section 2–611
Annotated Code of Maryland
(2010 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,

Chapter 489 of the Acts of the General Assembly of 2015
Section 27

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Tax – General

2–611.

(A) IN THIS SECTION, “ACCOUNT” MEANS THE LOCAL RESERVE ACCOUNT ESTABLISHED TO COMPLY WITH § 2–606 OF THIS SUBTITLE.

(B) THIS SECTION APPLIES TO A COUNTY OR MUNICIPAL CORPORATION THAT RECEIVES AN OVERPAYMENT OR UNDERPAYMENT OF LOCAL INCOME TAX REVENUE FROM THE COMPTROLLER.

(C) AFTER REVIEWING INCOME TAX REVENUE DISTRIBUTIONS TO A COUNTY OR MUNICIPAL CORPORATION, IF THE COMPTROLLER DETERMINES THAT THE COUNTY OR MUNICIPAL CORPORATION RECEIVED AN UNDERPAYMENT OF INCOME TAX, THE COMPTROLLER SHALL INITIALLY PAY THE AMOUNT DUE TO THE COUNTY OR MUNICIPAL CORPORATION FROM THE ACCOUNT.

(D) (1) AFTER REVIEWING INCOME TAX REVENUE DISTRIBUTIONS TO A COUNTY OR MUNICIPAL CORPORATION, IF THE COMPTROLLER DETERMINES THAT THE COUNTY OR MUNICIPAL CORPORATION RECEIVED AN OVERPAYMENT OF INCOME TAX, THE COUNTY OR MUNICIPAL CORPORATION SHALL REIMBURSE THE ACCOUNT FOR ITS SHARE OF THE OVERPAYMENT.

(2) IF THE AFFECTED COUNTY OR MUNICIPAL CORPORATION DOES NOT REIMBURSE THE ACCOUNT IN A TIMELY FASHION, THE COMPTROLLER SHALL WITHHOLD THE AMOUNT OWED TO THE ACCOUNT FROM THE QUARTERLY INCOME TAX DISTRIBUTIONS IN ~~TWENTY~~ FOURTY EQUAL INSTALLMENTS BEGINNING WITH THE FIRST APPLICABLE QUARTERLY DISTRIBUTION MADE AFTER THE COUNTY OR MUNICIPAL CORPORATION HAS MADE ITS FINAL REIMBURSEMENT PAYMENT, IF REQUIRED TO DO SO, UNDER § 27 OF CHAPTER 489 OF THE ACTS OF 2015, AS AMENDED.

(E) A DETERMINATION BY THE COMPTROLLER UNDER THIS SECTION THAT A COUNTY OR MUNICIPAL CORPORATION RECEIVED AN UNDERPAYMENT OR OVERPAYMENT OF INCOME TAX SHALL BE BASED ON A FULL ACCOUNTING OF INCOME TAX RETURNS FOR THE TAXABLE YEAR FOR WHICH THE COUNTY OR MUNICIPAL CORPORATION RECEIVED THE UNDERPAYMENT OR OVERPAYMENT.

Chapter 489 of the Acts of 2015

SECTION 27. AND BE IT FURTHER ENACTED, That the Attorney General shall review the decision of the U.S. Supreme Court in the appeal of Maryland State Comptroller of the Treasury v. Brian Wynne, et ux. 431 Md. 147 (2013) and advise the Comptroller whether the decision, expressly or in effect, requires the payment of income tax refunds and interest attributable to taxable years beginning after December 31, 2005, but before January 1, 2015, and, if the Attorney General so advises, the Comptroller shall initially pay the refunds and interest from the Local Reserve Account (Account) established to comply with § 2-606 of the Tax – General Article. After the Comptroller pays the refunds and interest from the Account, each local government shall reimburse the Account for its share of related refunds and interest. If an affected local government does not reimburse the Account in a timely fashion, the Comptroller shall withhold the amount owed to the Account from the quarterly income tax distributions in [nine] TWENTY equal installments, beginning with the first applicable quarterly distribution made after [June 2016.] FEBRUARY 2019, until the Account is fully reimbursed.

SECTION 2. AND BE IT FURTHER ENACTED, That the Comptroller may not require a county or municipal corporation to make a reimbursement payment under § 2-611 of the Tax – General Article until the Comptroller completes a statewide analysis to determine the number of counties or municipal corporations that received an overpayment or underpayment of local income tax revenue.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Enacted under Article II, § 17(b) of the Maryland Constitution, April 7, 2016.