

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 1024 (Senator Serafini)
Budget and Taxation

Income Tax - Interest Rate - Wynne Case

This bill repeals the annual interest rate required to be used to calculate interest owed for specified tax refunds resulting from the final decision under *Maryland State Comptroller of the Treasury v. Brian Wynne, et ux.*, 431 Md. 147 (2013) (Wynne case).

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: General fund expenditures increase in FY 2017 due to one-time implementation costs at the Comptroller's Office. Revenues are not affected.

Local Effect: Local income tax revenues will decrease by a total of about \$50.0 million beginning in FY 2017, with the largest revenue decreases in Montgomery County and Baltimore County. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law/Background: By October 1 of each year, the Comptroller must set the annual interest rate for tax refunds and monies owed to the State for the next calendar year at a rate equal to the greater of 13%, or three percentage points, above the average prime rate of interest in the previous fiscal year, based on information from the Federal Reserve Bank.

In the Wynne case, the Maryland Court of Appeals upheld a ruling of the Howard County Circuit Court that the failure of the State to allow a credit with respect to the county income tax for out-of-state income taxes paid to other states on pass-through income earned in those states discriminates against interstate commerce and violates the Commerce Clause of the U.S. Constitution. The State appealed the decision to the U.S. Supreme Court, which affirmed the judgment of the Maryland Court of Appeals on May 18, 2015.

The Budget Reconciliation and Financing Act of 2014 (Chapter 464) altered the annual interest rate to be used for income tax refunds resulting from the final decision in the Wynne case. The Comptroller's Office must use an annual interest rate equal to the average prime rate of interest during fiscal 2015, based on a determination by the Board of Governors of the Federal Reserve Bank. The provision applies to applicable tax refunds for tax years 2006 through 2014.

The Budget Reconciliation and Financing Act of 2015 (Chapter 489) established the process of paying refunds and interest resulting from the Wynne case. The Comptroller must pay the interest and refunds from the local income tax reserve account. If a local government does not reimburse the account in a timely manner, the Comptroller is required to withhold the affected local government's quarterly income tax distributions in nine equal installments, beginning in the first quarter of fiscal 2017, until the amount is fully reimbursed by the local government for its share of related refunds and interest.

Under the interest rate specified by current law, local revenues will decrease by an estimated \$201.6 million in potential refunds and interest for prior tax years dating back to tax year 2006. In addition, the Comptroller's Office estimates that local income tax revenues will decrease by about \$43.0 million annually beginning in fiscal 2016. The largest ongoing annual impact will be in Montgomery County at \$24.2 million annually (just over 56% of the total), followed by Baltimore County (\$4.5 million, or 10% of the total). As a percentage of local income tax revenues, the largest impact will be in Cecil County (2.8% of collections), followed by Worcester County (2.4%).

State Expenditures: The Comptroller's Office reports that it has examined and calculated the interest owed to taxpayers who filed claims for refunds. General fund expenditures will increase in fiscal 2017 in order to recalculate the interest due for each claim.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Department of Legislative Services

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kb/jrb

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