

SENATE BILL 345

Q3

7lr0467

By: **Senator King**

Introduced and read first time: January 25, 2017

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax Refunds – Wynne Case – Eligibility**

3 FOR the purpose of authorizing individuals eligible for income tax refunds for certain
4 taxable years to file, on or before a certain date, certain amended income tax returns
5 to claim the income tax refund; providing that the determination of eligibility for a
6 certain income tax refund is made without regard to a certain limitation; prohibiting
7 an individual that claims a certain income tax refund from receiving interest on the
8 income tax refund; and generally relating to the authority of certain individuals to
9 claim certain income tax refunds.

10 BY repealing and reenacting, without amendments,
11 Article – Tax – General
12 Section 13–1104(a) and (c)
13 Annotated Code of Maryland
14 (2010 Replacement Volume and 2016 Supplement)

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

17 **Article – Tax – General**

18 13–1104.

19 (a) Except as otherwise provided in this section, a claim for refund under this
20 article may not be filed after 3 years from the date the tax, interest, or penalty was paid.

21 (c) (1) Except as provided in paragraph (2) of this subsection, a claim for
22 refund or credit of overpayment of financial institution franchise tax or income tax may not
23 be filed after the periods of limitations for filing claims for refund or credit of overpayment
24 set forth in § 6511 of the Internal Revenue Code.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) A claim for refund or credit of overpayment may not be filed later than
2 1 year from the date of:

3 (i) a final adjustment report of the Internal Revenue Service; or

4 (ii) a final decision of the highest court of the United States to which
5 an appeal of a final decision of the Internal Revenue Service is taken.

6 (3) Except as provided in paragraph (4) of this subsection, a refund or credit
7 of overpayment allowed upon a claim filed under this subsection may not exceed the amount
8 of the Maryland tax resulting from the application of the limits set forth in § 6511 of the
9 Internal Revenue Code.

10 (4) A refund or credit of overpayment allowed upon a claim filed under
11 paragraph (2) of this subsection shall be limited to the amount of the reduction in Maryland
12 tax resulting from the federal income tax adjustment.

13 SECTION 2. AND BE IT FURTHER ENACTED, That:

14 (a) Notwithstanding § 13-1104 of the Tax – General Article, on or before
15 December 31, 2017, an individual may file an amended income tax return to claim an
16 income tax refund for a taxable year beginning after December 31, 2005, but before January
17 1, 2015, if the individual:

18 (1) is eligible for an income tax refund as a result of the decision in
19 *Comptroller of the Treasury of Maryland v. Wynne*, 575 U.S. ____ (2015);

20 (2) did not file a protective claim to preserve the claim for an income tax
21 refund resulting from the income tax credit authorized under § 10-703 of the Tax – General
22 Article; and

23 (3) did not use an income tax return preparer to prepare the income tax
24 return for the taxable year for which the individual is filing an amended income tax return.

25 (b) The eligibility for an income tax refund under subsection (a)(1) of this section
26 is determined without regard to the limitation on the time to file a claim for an income tax
27 refund under § 13-1104 of the Tax – General Article.

28 (c) An individual that claims an income tax refund under subsection (a) of this
29 section may not receive interest on the income tax refund.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
31 1, 2017.