



Montgomery County

Office of Intergovernmental Relations

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HB 621

DATE: February 18, 2020

SPONSOR: Delegate Korman, et al.

ASSIGNED TO: Appropriations

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POSITION: SUPPORT

County Tax Fairness Act

Montgomery County supports House Bill 621, which would extend the timeline for local governments to repay the Local Income Tax Reserve Account. This is the account that was used to refund local income taxes and interest due taxpayers who were impacted by the 2015 U.S. Supreme Court's decision in the appeal of *Maryland State Comptroller of the Treasury v. Bryan Wynne (Wynne)*.

In short, *Wynne* was about double taxation – specifically, whether the State should have allowed a credit against the local income for out of state income taxes paid on pass through income earned in those states. The Maryland Court of Appeals decided that yes, a credit should have been allowed and this decision was upheld by the U.S. Supreme Court. Aggrieved taxpayers had until October 15, 2018 to file claims for refunds. In total, about \$252 million in refunds plus interest were paid from the Local Income Tax Reserve Account; however, that number could increase since an issue related to the rate of interest owed is still being litigated.

While Montgomery County was significantly impacted, based on a percent of total local revenue collections, Cecil and Worcester Counties were hit even harder. All 23 counties, including many municipalities and Baltimore City, were affected. Further, the refunds for protected claims are only part of the fallout from the *Wynne* decision. Local income tax collections will be reduced into perpetuity. For Montgomery County, that number is estimated to be \$30 million a year.

Extending the timeline for repayment as proposed under the bill is a reasonable request. Account balances have been sufficient to satisfy *Wynne* related claims and at the same time issue refunds to taxpayers filing routine State returns. The Administration has requested the same repayment extension via the Budget Reconciliation and Financing Act of 2020 for a \$200 million diversion from the Account that occurred in 2011. This is an indicator that the Administration considers a slower repayment schedule acceptable for its purposes.

Further, creating greater flexibility would be helpful as a hedge against quarterly local income tax distributions that have become increasingly difficult to estimate. This new level of volatility can be attributed to changes in taxpayer behavior related to federal tax reform, changing macro-economic conditions, and the out sized influence of decisions made by a relatively small number of wealthy taxpayers. Montgomery County's finance professionals are concerned that this is the "new norm." Other causes for concern include when the current economic cycle will shift and the phasing in of new mandated spending requirements.

For the aforementioned reasons, Montgomery County requests a favorable report on House Bill 621. It would provide welcome relief, making its passage greatly appreciated.