

PwC's Law Firm Services News Alert

Following up on the U.S. Supreme Court's decision in Wynne -- Potential Application to States Other than Maryland



June 23, 2015

As reported in our May 19th PwC Law Firm Services (LFS) News Alert on the *Wynne* decision, the U.S. Supreme Court recently upheld a Maryland Court of Appeals' ruling that Maryland's absence of a credit against the local portion of the state's personal income tax, with respect to a Maryland resident's out-of-state pass-through income from an S corporation, was unconstitutional. See Maryland State Comptroller of the Treasury v. Wynne, Slip Op. 13-485 (May 18, 2015) - http://www.supremecourt.gov/opinions/14pdf/13-485_07jp.pdf. Maryland's personal income tax legislation was found to violate the dormant Commerce Clause's internal consistency test because if every state adopted a similar tax scheme, then interstate commerce would be taxed at a higher rate than intrastate commerce.

PwC has been evaluating the potential application of the reasoning outlined by the Court in *Wynne* to scenarios affecting U.S. law firms with offices and partners resident in states other than Maryland. For example, New York, Connecticut and California do not provide their tax residents with a credit for income taxes paid to another state where the taxpayer is also considered to be a resident of that other state. So a partner in a New York firm, with an apartment in New York City and a house in Connecticut, will end up suffering double taxation if the partner is a tax resident of both states. Partners that are New York City tax residents should consider filing protective amended returns where tax is paid as a nonresident in high tax rate states like California.

Law firms should inform their partners of this opportunity, so that partners who are tax residents in more than one state can evaluate whether they can benefit by filing protective amended state returns seeking refunds on the basis of *Wynne*.

Contact PwC's Law Firm Services for further details

PwC can assist your firm in evaluating the impact in these and other potential jurisdictions. Please give us a call to start the conversation.

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For an earlier LFS News Alert on this case, please visit:

http://www.pwc.com/en_US/us/law-firms/assets/pwc-lfs-news-alert-may2015-md-tax-credit.pdf