Supreme Court Tax Cases 2014-2015

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The State and Local Legal Center (SLLC) files Supreme Court amicus curiae *briefs on behalf of the Big Seven national organizations representing state and local governments.*

*Indicates a case where the SLLC filed an *amicus* brief.

In a 5-4 decision in *Comptroller v. Wynne** the Court held that Maryland's failure to offer residents a full credit against income taxes paid to other states violates the dormant Commerce Clause. Maryland taxes residents' income earned in- and out-of-state. If Maryland residents pay income tax to another state for income earned there, Maryland allows them a credit against Maryland's "state" tax but not its "county" tax. Nonresidents who earn income in Maryland pay Maryland "state" tax and a "special nonresident tax" equivalent to Maryland's lowest "county" tax. The problem with Maryland's tax scheme the Court reasoned was that it had the potential to result in double taxation of income earned out-of-state. More specifically, it failed the "internal consistency" test. If all states had a tax scheme like Maryland's "county" and "special nonresident tax" that taxed income residents earned in-state, income residents earned in other jurisdictions, and non-residents' income earned in-state, residents who earn income out-of-state would be taxed by their state of residence and the state where they earned the income.

The Railroad Revitalization and Regulatory Reform Act (4-R Act) prohibits state and local governments from imposing taxes that discriminate against railroads. Railroads and other commercial and industrial taxpayers in Alabama pay a four percent sales tax on diesel fuel, trucks pay a 19-cents per gallon excise tax and no sales tax, and water carriers pay no tax. CSX claimed Alabama violated the 4-R Act by requiring railroads to pay sales tax on diesel fuel and exempting their competitors (even though railroads paid *less* in sales tax than trucks paid in excise tax). In *Alabama Department of Revenue v. CSX Transportation** the Court held 7-2 that railroads can be compared to their competitors (rather than other commercial and industrial taxpayers) when determining whether a tax is discriminatory under the 4-R Act. Competitors are a "similarly situated" class "since discrimination in favor of that class most obviously frustrates the purpose of the 4-R Act," including restoring financial stability to railroads and fostering competition between railroads and other modes of transportation. Because "[t]here is simply no discrimination when there are roughly comparable taxes" different taxes paid by railroads and their competitors must be compared. And the justifications Alabama offered for why water carriers don't pay any tax on diesel fuel must be examined when determining if railroads have been discriminated against.

In 1992 in *Quill Corp. v. North Dakota*, the Court held that states cannot require retailers with no in-state physical presence to collect use tax. Since 2010, Colorado has required remote sellers to inform Colorado purchasers annually of their purchases and send the same information to the Colorado Department of Revenue. Direct Marketing Association sued Colorado in federal court claiming these requirements are unconstitutional under *Quill*. The Court held unanimously in *Direct Marketing Association v. Brohl** that the Tax Injunction Act (TIA) does not bar a federal court from deciding this case. Per the TIA, federal courts may not "enjoin, suspend or restrain the assessment, levy or collection of any tax under State law" where a remedy is available in state court. The TIA was modelled on the Anti-Injunction Act, which concerns federal taxes. According to the Court, "the Federal Tax Code has long treated information gathering as a phase of tax administration that occurs before assessment, levy, or collection." And, while DMA's lawsuit sought to "limit, restrict, or hold back" tax collection in Colorado, it did not "restrain" tax collection in the narrow sense—by stopping it.