No. 13-485

In the Supreme Court of the United States

MARYLAND STATE COMPTROLLER OF THE TREASURY,
Petitioner,

v.

BRIAN WYNNE, et ux.,
Respondents.

On Petition for a Writ of Certiorari to the Court of Appeals of Maryland

BRIEF OF THE INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION, THE UNITED STATES CONFERENCE OF MAYORS, THE NATIONAL ASSOCIATION OF COUNTIES, THE INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION AND THE MARYLAND ASSOCIATION OF COUNTIES AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

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QUESTION PRESENTED

Does the United States Constitution prohibit a state from taxing all the income of its residents—wherever earned—by mandating a credit for taxes paid on income earned in other states?

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INTEREST OF *AMICI CURIAE*[1]

The International Municipal Lawyers Association (IMLA) is a non-profit, nonpartisan professional organization consisting of more than 2500 members. The membership is comprised of local government entities, including cities, counties and subdivisions thereof, as represented by their chief legal officers, state municipal leagues, and individual attorneys. IMLA serves as an international clearinghouse of legal information and cooperation on municipal legal matters. Established in 1935, IMLA is the oldest and largest association of attorneys representing United States municipalities, counties and special districts.

IMLA's mission is to advance the responsible development of municipal law through education and advocacy by providing the collective viewpoint of local governments around the country on legal issues before the United States Supreme Court, the Unites States Courts of Appeals, and in state supreme and appellate courts.

The United States Conference of Mayors (USCM), founded in 1932, is the official nonpartisan organization of all United States cities with a population of more than 30,000 people, which includes

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[1] No counsel for any party to these proceedings authored this brief, in whole or in part. No entity or person, aside from *amici* or their members, paid for or made any monetary contribution toward the preparation or submission of this brief. *Amici curiae* file this brief with the written consent of all parties, copies of which are on file with the Clerk's Office. All parties received timely notice of *amici*'s intent to file this brief.

over 1,200 cities at present. Each city is represented in the USCM by its chief elected official, the mayor.

The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. NACo provides essential services to the Nation's 3,068 counties through advocacy, education, and research.

The International City/County Management Association (ICMA) is a nonprofit professional and educational organization of over 9,000 appointed chief executives and assistants serving cities, counties, towns, and regional entities. ICMA's mission is to create excellence in local governance by advocating and developing the professional management of local governments throughout the world.

The Maryland Association of Counties (MACo) is a non-profit and non-partisan organization that serves Maryland's 23 Counties and Baltimore City by articulating the needs of local government to the Maryland General Assembly. Although MACo does not regularly advocate in the courts, it has chosen to make an exception in this case because of the acute ramifications of the Court of Appeals' decision on MACo's member jurisdictions. Specifically, as a result of the ruling, each of Maryland's counties and Baltimore City will experience significant reductions in personal income tax collections and be hindered in their ability to provide critical public infrastructure and services to residents such as schools, roads, police, parks, and libraries, to name only a few. Based on recent estimates from the State Comptroller's Office, the retroactive effect of this decision could potentially be $120 million in lost local income tax revenues.

Prospectively, the effect could reduce local income tax revenues by $45 million to $50 million annually.

The *amici* respectfully submit this brief on behalf of the thousands of state subdivisions—counties, cities, townships and other municipalities—that operate under our system of federalism to collect local income taxes that fund their provision of vital services to residents. The implications of the Maryland Court of Appeals' ruling for many of those municipalities is dire: if every state is required to accord its residents a dollar-for-dollar credit for all income taxes paid to out of state recipients (including counties and cities in other states), the flow of funds to in-state municipalities will be vastly curtailed. There are many states with long-established tax programs that, like Maryland's, do not afford dollar-for-dollar credits to residents for all out-of-state income taxes paid and are operating on a premise of constitutional viability.

Additionally, the *amici* believe that this Court should resolve the conflict created by the Maryland Court of Appeals between a most basic principle of state sovereignty – the right of a state to tax a person resident within its boundaries, which has been recognized throughout the history of this Court–and the unwritten, amorphous and arbitrary concept of "dormant" Commerce Clause jurisprudence.

SUMMARY OF ARGUMENT

The Court should grant certiorari in this case because the Maryland Court of Appeals' decision conflicts with other state court decisions and because this is an important issue of federalism that has not been authoritatively decided by this Court. This case

places before the Court the important question of whether a state may tax all the income of its residents, wherever earned, or whether it is constitutionally mandated to provide a dollar-for-dollar credit for all income taxes paid by those residents in other states.

At issue is the degree to which individual states may exercise their sovereign prerogative to raise revenues. If the Court of Appeals is correct, the dormant Commerce Clause requires that states and their subdivisions re-write their tax codes and continue to provide essential services to residents who may pay little or nothing for them.

Historically, this Court has recognized a State's unlimited authority to tax its residents provided the tax is on property within the state or on privileges enjoyed there. *Lawrence v. State Tax Comm'n*, 286 U.S. 276, 279-80 (1932). No one can argue that the taxpayer in this case enjoyed only limited privileges in his home county. In 2010, Money Magazine rated Columbia/Ellicott City (Howard County's main population center) the second best place to live among America's small cities.[2] The County's library system ranks as one of the best in the nation and the County has received numerous other accolades for its services.[3] These awards reflect the County's commitment to excellence—and its taxpayers' willingness to spend the funds needed to achieve that excellence. All of those

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[2] http://money.cnn.com/magazines/moneymag/bplive/2010/snapshots/PL2419125.html (last accessed November 14, 2013).

[3] http://www.co.ho.md.us/exec.aspx?id=6442458795 (last accessed November 14, 2013).

funds derive from the County's multiple sources of tax revenues including its income tax.

The decision by the Maryland Court of Appeals departs from this foundation and is instead based on different principles:

1. First, in order to avoid substantial interference in interstate commerce, the dormant Commerce Clause of the United States Constitution *requires* every state and subdivision thereof to give its residents a full tax credit for all income taxes paid in another state or subdivision; and

2. Second, the receipt of Subchapter S pass-through income in Maryland is "interstate commerce" which is being substantially affected by Maryland's tax structure, in violation of the dormant Commerce Clause.

Although this Court has repeatedly confirmed that a State may tax income of its residents without regard to source, the specific question of whether a State must offer a credit to its residents for all income taxes paid to another jurisdiction has never been decided.

The constitutional principle relied on by the Maryland Court of Appeals—the dormant Commerce Clause—is not the bright-line mandate discerned by that court. Cases below and the Court's own precedents assessing tax issues in light of the dormant Commerce Clause lead to divergent conclusions. While traditional dormant Commerce Clause analyses function effectively in cases where a state has clearly acted, typically as a market regulator, to favor in-state competitors, the analysis in the arena of state and local personal income taxation where the taxation is not

facially discriminatory is more nuanced and defies doctrinal answers.

The decision by the Court of Appeals implies that any state whose tax code does not grant a full credit for all income taxes paid by residents to other jurisdictions is void *ab initio*. In the case of Maryland, says the Court of Appeals, this discontinuity stifles interstate commerce and requires dismantling of the state's income tax structure. The many other states and local governments that decline to give full credit for all income taxes paid in other jurisdictions will face the same imperative.

This result is inconsistent with state sovereignty and is not mandated by the Constitution.

REASONS FOR GRANTING THE PETITION

This Court should grant certiorari to settle what has become a murky area of the law pitting the decision of the Maryland Court of Appeals against decisions of courts in other states and resolving the important federal question of the extent to which the dormant Commerce Clause should chip away at a State's most basic sovereign power: that of taxing its residents.

Left unchecked, the implication that any state tax program is unconstitutional which does not grant a dollar-for-dollar credit against in-state income taxes for out-of-state income taxes paid, could result in an attack on many state and municipal tax laws across the nation. This Court should avert such an assault.

ARGUMENT

I. THE DECISION OF THE MARYLAND COURT OF APPEALS IS NOT MANDATED BY THE CONSTITUTION AND CONFLICTS WITH NUMEROUS CONTRARY HOLDINGS IN OTHER STATES

The conclusion of the Court of Appeals that a state must, under the imperatives of the dormant Commerce Clause, grant its residents a complete tax credit for every dollar of income tax paid to another state is not mandated by the Constitution. The Maryland court does not cite a single precedent for the proposition that the United States Constitution unambiguously *requires* every state to grant a full credit to its residents for all income taxes they may pay to every other state. The reason for this void is that there is no such case. As Professor Hellerstein, often cited by this Court and many courts around the country, states: "The question then arises as to whether the Commerce Clause requires Resident State nevertheless to grant a credit for taxes that Source State has permissibly imposed in order to avoid the resulting risk, if not actuality, of multiple taxation. ***The answer to this question is by no means clear . . . .***" *Hellerstein*, State Taxation: 3rd Edition, ¶ 20.10[2][b] (emphasis added).

The ambiguity surrounding this issue is even more apparent when the holding of the Maryland Court of Appeals is reviewed in the context of out-of-state tax credit decisions in other jurisdictions. For example, New York's highest court has expressly found that an individual taxpayer residing in one state who is disallowed a tax credit for income taxes paid in another state does NOT implicate interstate commerce or the

dormant Commerce Clause. *Tamagni v. Tax Appeals Tribunal,* 695 N.E.2d 1125 (N.Y. 1998). As the court said there, "[t]he New York income tax operates to tax residents as residents of this State, without regard to their activities in other states; so long as this State's definition of resident does not violate due process (and there is no claim here that it does), no violation of the dormant Commerce Clause is apparent." *Id*. at 1134. Similarly, the Supreme Court of Connecticut has held that the dormant Commerce Clause does not invalidate Connecticut's failure to allow a credit for income taxes paid out of state. *Chase Manhattan Bank v. Gavin*, 733 A.2d 782, 805 (Conn. 1999). In *Christman v. Franchise Tax Bd*., 134 Cal. Rptr. 725, 732 (Cal. Ct. App. 1976) the California Court of Appeals upheld that state's denial of a credit for income taxes paid by a California resident on Subchapter S income generated in Georgia.[4] Likewise in *Boone v. Chumley*, 372 S.W.3d 104, 111-12 (Tenn. Ct. App. 2011), the Tennessee Court of Appeals upheld a denial of credit for Tennessee residents who paid taxes to South Carolina on Subchapter S income and held that Tennessee's refusal to provide a credit did not violate the dormant Commerce Clause. As the foregoing demonstrates, "[n]either the federal nor state constitutions require a

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[4] *Christman* was decided before California recognized S corporation status, the corporation was a C corporation for California purposes, and the court regarded the income in issue as dividends. *Valentino v. Franchise Tax Bd.,* 105 Cal. Rptr. 2d 304, 306-07 (Cal. Ct. App. 2001), distinguished *Christman* on this ground under California tax law, but the decision in *Christman* construing the dormant Commerce Clause's effect upon the state's duty to grant tax credits continues in stark contrast to the decision of the Maryland Court of Appeals.

state to provide an income tax credit for income taxed by a foreign jurisdiction" but that rather, a "[c]redit is a matter of grace and a state may impose conditions on its application." *Laurite v. Director, Div. of Taxation*, 12 N.J. Tax 483, 492 (1992).

This Court, too, has previously discussed the dormant Commerce Clause *vis a vis* a state's income tax scheme. Addressing the State of Mississippi's income tax on the income of a resident who earned income in Tennessee, the Court recognized the authority of the State to tax out-of-state income and gave convincing support for doing so:

> The obligation of one domiciled within a state to pay taxes there, arises from unilateral action of the state government in the exercise of the most plenary of sovereign powers, that to raise revenue to defray the expenses of government and to distribute its burdens equably among those who enjoy its benefits. Hence, domicile in itself establishes a basis for taxation. Enjoyment of the privileges of residence within the state, and the attendant right to invoke the protection of its laws, are inseparable from the responsibility for sharing the costs of government. *See Fidelity & Columbia Trust Co. v. Louisville*, 245 U.S. 54, 58; *Maguire v. Trefry*, 253 U.S. 12, 14, 17; *Kirtland v. Hotchkiss*, 100 U.S. 491, 498; *Shaffer v. Carter*, 252 U.S. 37, 50.
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> The Federal Constitution imposes on the states no particular modes of taxation, and apart from the specific grant to the federal government of the exclusive power to levy certain limited classes of taxes and to regulate interstate and

> foreign commerce, it leaves the states unrestricted in their power to tax those domiciled within them, so long as the tax imposed is upon property within the state or on privileges enjoyed there, and is not so palpably arbitrary or unreasonable as to infringe the Fourteenth Amendment. *Kirtland v Hotchkiss*, *supra*.

Lawrence v. State Tax Comm'n, 286 U.S. 276, 279-80 (1932).

By way of amplifying the *Lawrence* Court's acknowledgement that a state has unrestricted power to tax those domiciled within the state "*so long as the tax imposed is . . . on privileges enjoyed there,*" the Howard County, Maryland Budget[5] helps explain the importance of the local income tax to its ability to provide services to its residents. For FY 2014, the income tax makes up 23.36% of its revenues. Applied to a budget of almost $1.6 Billion, the income tax amounts to about $373 Million. These revenues fund a host of privileges enjoyed by the taxpayers. What privileges do these revenues fund? In the FY 2014 Budget, the expenditures are divided up among various broadly defined programs with education being the greatest recipient of funding: roughly 57% of the total budget. In the case before the Court, the taxpayer has five school age children, all of whom could be enjoying these privileges. The taxpayer also enjoys a commitment to public safety - 13% of the budget; public

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[5] The Howard County Budget for FY 2014 is available through the County's website at: http://www.howardcountymd.gov/departments.aspx?ID=499 (last accessed November 13, 2013).

facilities – 10% of the budget; a legislative and judicial system – 1% of the budget; community services – 5% of the budget and so on. That the resident taxpayer in this case enjoys the foregoing privileges provided by Howard County is self-evident. The role played by local income taxes is even greater in other Maryland counties.[6]

Regardless of where a resident's income originates, that income forms the basis of taxation generally used to fund public services. Clearly, some residents are taxed for services that they do not use – seniors do not generally use the educational system; while younger families rely less on some community services than do older residents. Nevertheless, despite the lack of direct nexus between a tax and particular services rendered, local taxes find constitutional support if their nexus lies in the common privileges they fund for all resident taxpayers. The Maryland Court of Appeals' decision drifts from this long-standing principle. It conflates

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[6] For example, in Montgomery County, Maryland, the income tax accounts for nearly 29% of the County's revenue stream and will amount to an estimated $1.299 Billion in FY 14. Like Howard County, Montgomery County uses these revenues for a host of projects, among them the provision of affordable housing; solving traffic congestion; serving the educational needs of over 151,000 K-12 students; addressing storm water management failures in its MS4 systems; and increasing by 120 the number of police officers serving the community. *See* Montgomery County Revenue Schedule for FY 14, available at: http://www.montgomerycountymd.gov/OMB/Resources/Files/omb/pdfs/fy14/psp_pdf/schedc.pdf (last accessed November 15, 2013). Highlights of the County's FY14 Budget are available at: http://www.montgomerycountymd.gov/OMB/Resources/Files/omb/pdfs/fy14/psp_pdf/psp_highlights.pdf (last accessed November 14, 2013).

the dormant Commerce Clause jurisprudence following *Complete Auto,* a decision that involves franchise taxes–taxes specifically imposed for the privilege of doing business in the state, with the individual income tax–a tax on residents' income from whatever source. *See Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977). Indeed, the Court in *Complete Auto* affirms the basic principles set out in *Lawrence*, that a tax on the privileges enjoyed by a resident taxpayer are not subject to invalidation under the dormant Commerce Clause. *Id.* at 278-80.

II. THE DECISION OF THE MARYLAND COURT OF APPEALS UNDERMINES STATE SOVEREIGNTY

The decision of the Maryland Court of Appeals obstructs the State's power of taxation, a fundamental incident of State sovereignty recognized since the time of *McCulloch v. Maryland*, 17 U.S. 316 (1819) that unambiguously permits a state to tax *all* the income of its residents wherever derived. *Oklahoma Tax Comm'n v. Chicasaw Nation,* 515 U.S. 450, 453 (1995).[7]

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[7] In *Chickasaw Nation*, the Court noted:

> Although sovereigns have authority to tax all income of their residents, including income earned outside their borders, they sometimes elect not to do so, and they commonly credit income taxes paid to other sovereigns. But "if foreign income of a domiciliary taxpayer is exempted, this is an independent policy decision and not

In requiring that states grant credits for all income taxes paid out-of-state, the court undermines the prerogative of states and their subdivisions to enact a diversity of mechanisms and structures that collect revenues sufficient to provide the public services for which they are responsible. *See Shaffer v. Carter*, 252 U.S. 37, 50-51 (1920).

If a policy is to be effected requiring every state in the nation to credit income taxes paid by residents to every other state, such action should come from Congress itself. Otherwise, deference to state sovereignty requires that some discontinuities survive. This Court has previously confirmed, in a decision rendered after *Complete Auto*, that the dormant Commerce Clause does not definitively prohibit all overlap in taxation in income:

> The only conceivable constitutional basis for invalidating the Iowa statute would be that the Commerce Clause prohibits any overlap in the computation of taxable income by the States. If the Constitution were read to mandate such precision in interstate taxation, the consequences would extend far beyond this particular case. *For some risk of duplicative taxation exists whenever the States in which a corporation does business do not follow identical rules for the division of income*. Accepting

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one compelled by jurisdictional considerations." American Law Institute, Federal Income Tax Project: International Aspects of United States Income Taxation 6 (1987).

Oklahoma Tax Comm'n v. Chickasaw Nation, 515 U.S. 450, 463, n. 12 (U.S. 1995).

> appellant's view of the Constitution, therefore, would require extensive judicial lawmaking.

Moorman Mfg. Co. v. Bair, 437 U.S. 267, 278-79 (1978). (emphasis added).

This Court was abundantly clear that, notwithstanding Commerce Clause considerations, any move to enforce a more uniform system of interstate taxation on the States must come from Congress:

> While the freedom of the States to formulate independent policy in this area may have to yield to an overriding national interest in uniformity, the content of any uniform rules to which they must subscribe should be determined only after due consideration is given to the interests of all affected States. It is clear that the legislative power granted to Congress by the Commerce Clause of the Constitution would amply justify the enactment of legislation requiring all States to adhere to uniform rules for the division of income. It is to that body, and not this Court, that the Constitution has committed such policy decisions.

Id. at 280.

The far-reaching implications of the decision of the Maryland Court of Appeals on state sovereignty are not hypothetical. While seven states have chosen not to tax personal income at all, the remaining forty-three states and the District of Columbia levy a tax on personal income. So do nearly 5,000 state subdivisions—counties, cities and special districts around the country, many of which are IMLA

members.[8] Each of Maryland's counties assesses an income tax, at rates from 1.25% to 3.2%.[9] So too do Indiana's 92 counties, assessing income taxes at rates up to 3.13%.[10] In Ohio, 593 municipalities and 181 school districts assess such a tax,[11] as do 2,469 municipalities and 469 school districts in Pennsylvania.[12]. Many cities and school districts in Iowa and Michigan also assess these taxes.[13] Major cities frequently charge income taxes; Philadelphia's income tax is 3.928% on residents and 3.4985% on non-residents.[14]

These municipalities have enacted statutes to collect taxes from individuals and businesses, whether resident or non-resident, which generate revenues and income within their boundaries and thereby benefit from the governmental infrastructure which allows such activity to flourish. Local jurisdictions have the

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[8] http://taxfoundation.org/article/local-income-taxes-city-and-county-level-income-and-wage-taxes-continue-wane (last accessed November 10, 2013).

[9] http://taxes.marylandtaxes.com/Individual_Taxes/Individual_Tax_Types/Income_Tax/Tax_Information/Tax_Rates/Local_and_County_Tax_Rates.shtml (last accessed November 14, 2013).

[10] http://www.in.gov/dor/files/dn01.pdf (last accessed November 9, 2013).

[11] Tax Foundation, *supra* note 8.

[12] *Id*.

[13] *Id.*

[14] *Id.*

burden of providing these residents a multitude of services including police and fire protection, schools, roads, water, trash collection, building inspection, land use zoning and planning, and the promotion of culture and entertainment. The prerogative of states to authorize a diversity of taxing mechanisms to fund these benefits is unquestioned. *Shaffer,* 252 U.S. at 50-51.

The mischief inherent in the Maryland Court of Appeals' decision arises from the fact that ***many states and municipalities do not grant a complete credit to their residents for all income taxes paid in other jurisdictions.*** These include Wisconsin and North Carolina, which *expressly disallow* credits for city, county and other local income taxes paid out of state.[15] Likewise, the Tennessee Court of Appeals recently upheld the denial of a credit for income taxes paid to South Carolina by a Tennessee resident on Subchapter S income, reasoning that Tennessee and South Carolina did not have tax reciprocity. *Boone v. Chumley*, 372 S.W.3d 104, 108-11 (Tenn. Ct. App. 2011). The court held that it would not imply a reciprocity agreement between the two states because it did "not believe the General Assembly intended to enact a reciprocal agreement with a sister state *under which Tennessee could not receive a reciprocal benefit.*" *Id.* at 108 (emphasis in original).

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[15] Wisconsin expressly disallows a credit for income taxes paid to a county in another state. http://www.revenue.wi.gov/pubs/pb125.pdf (last accessed November 9, 2013); so does North Carolina http://www.dornc.com/taxes/individual/another.html (last accessed November 14, 2013).

In addition to some states declining to grant income tax credits, many municipalities impose a tax on residents without allowing a credit for taxes paid out of state (though some do allow a credit for taxes paid to another municipality), including Philadelphia, Cleveland, Detroit, Indiana's counties, Kansas City, St. Louis, and Wilmington.[16] As Philadelphia's income tax web site explains:

> The Earnings Tax is a tax on salaries, wages, commissions and other compensation paid to an employee who is employed or renders services to an employer. The City of Philadelphia is not a party to any reciprocal tax agreements with any other municipality. Non-residents of Pennsylvania cannot claim a tax credit against Philadelphia Earnings Tax for income taxes paid to any other state or political subdivision. Residents of Philadelphia employed outside of Pennsylvania may be required to file and pay a

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[16] *See* http://www.ccatax.ci.cleveland.oh.us/Y2013/muniit.pdf (last accessed November 11, 2013); http://www.legislature.mi.gov/(S(mphllz55322neouolpmmk2ik))/mileg.aspx?page=getobject&objectname=mcl-284-1964-2 (last accessed November 11, 2013); http://www.in.gov/dor/reference/files/ib32.pdf (last accessed November 11, 2013); http://kcmo.org/idc/groups/finance/documents/finance/rd-109.pdf; http://www.slpl.lib.mo.us/cco/code/data/t0522.htm (last accessed November 11, 2013); http://www.wilmingtonde.gov/government/earnedincometax (last accessed November 11, 2013); http://www.phila.gov/Revenue/businesses/taxes/Pages/WageTax.aspx (last accessed November 11, 2013).

> local income tax in that jurisdiction *in addition to* Philadelphia Earnings Tax.[17]

This discontinuity is by no means limited to income taxes. For example, other states disallow deductions for gross receipts taxes paid out of state.[18]

These statutes may result in double taxation. Under the rationale of the Court of Appeals, such discontinuities, inherent in a diverse matrix of state and local taxing initiatives, must be challenged. The implications of the Maryland decision for state and local sovereignty are sobering: Every taxpayer of every description in states that do not allow full credit for

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[17] http://www.phila.gov/Revenue/individuals/taxes/Pages/EarningsTax.aspx (last accessed November 11, 2103) (emphasis added).

[18] Massachusetts expressly disallows credits for gross receipts taxes:"**Gross Receipts Based Taxes:**

> This credit extends only to those taxes that are imposed on net income; the credit does **not** extend to taxes based on or derived directly from gross receipts. Gross receipts based taxes include: GRT, Washington Gross Receipts Tax; GMT, Texas Gross Margin Tax; CAT, Ohio Commercial Activity tax. Gross receipts-based taxes like the GRT, GMT and CAT are each taxes imposed for the privilege of doing business in a state. These taxes are **not** based on income and are due whether a business is profitable or not. Therefore, these taxes are not in the nature of net income taxes imposed on taxpayers, either directly or by imposition on pass-through entities in which the taxpayers are members.

http://www.mass.gov/dor/individuals/filing-and-payment-information/guide-to-personal-income-tax/credits/income-tax-paid-to-another-jurisdiction-credit.html#Scorp (last accessed November 9, 2013) (emphasis added).

out-of-state taxes paid may be incentivized to resist paying their fair share of taxes.[19] The Constitution cannot be construed to instigate a taxpayer revolt in every instance where one state does not afford a complete income tax credit for taxes paid in another jurisdiction.

The *amici* respectfully submit that these issues warrant the Court's review.

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[19] Within weeks after the Court of Appeals' decision, a major accounting firm began promoting in its web site that all Maryland residents (irrespective of any S-corporation affiliation) who paid any income taxes out-of-state in 2009 should file a "protective refund claim" for their 2009 Maryland income taxes and be prepared to file similar claims for subsequent years. www.dhgllp.com/res_pubs/Protective-Refund-Claims.pdf (last accessed November 11, 2013).

CONCLUSION

For the foregoing reasons, and those in the petition, the Court should issue a writ of certiorari and reverse the judgment below.

Respectfully submitted.

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