

How Will the 2015 Supreme Court Decisions Affect Your Clients?

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While approximately 10,000 cases are appealed to the U.S. Supreme Court each year, only 75 to 80 make it to oral argument. Of those 75 to 80 cases, usually only a few grab the media's attention. This newsletter highlights three landmark decisions handed down in 2015—*Comptroller v. Wynne*, *King v. Burrell*, and *Obergefell v. Hodges*—that could affect how your clients are taxed, pay for healthcare, and plan their estates.

***Comptroller v. Wynne* – A State Can't Double-Tax Income Earned Outside of the State**

Legal Issue: Does Maryland's state income tax scheme violate the U.S. Constitution by "double taxing" a resident's income earned from economic activity in another state that also taxes the same income?

Decision, 5 – 4: In a taxpayer friendly decision, the Supreme Court ruled that Maryland's "double taxation" scheme violates the Commerce Clause of the Constitution.

This case involved a Maryland couple, the Wynnes, who owned stock in a Maryland S corporation that did business in 39 states. Since income generated by an S corporation is passed through to its shareholders, the Wynnes paid income taxes in Maryland as well as their pro-rata share of taxes on the income the corporation earned in the other states.

In Maryland, residents are subject to a state income tax as well as a "county" income tax, also a state income tax but the rate of which is based on where the residents live. Prior to the *Wynne* case, the state allowed residents to take a credit against the Maryland state tax to offset a similar tax paid to another state, but it did not allow a credit to be taken against the county tax. Thus, the income of a Maryland resident earned outside of the state was "double-taxed" by being subject to (1) out-of-state taxes, as well as (2) the county tax. The U.S. Supreme Court struck down this "double taxation" scheme, holding that because the Commerce Clause gives Congress power over interstate commerce, Maryland could not hinder interstate commerce by offering a credit against "state" income taxes but not against "county" income taxes.

As a result of the *Wynne* decision, Maryland owes the Wynnes and other similarly situated taxpayers refunds and interest totaling about \$200 million. In addition, in 2015 and future years, an estimated 55,000 Maryland residents will be able to claim deductions against both types of income taxes to compensate for income taxes they pay out of state.

Planning Tip: While the *Wynne* decision involved a Maryland double-taxation scheme, the ruling will potentially affect hundreds of cities, counties and states. Clients who pay income

taxes in multiple states that may be affected by the *Wynne* decision should seek qualified tax advice regarding filing protective claims (such as amended returns or requests for refunds) for tax years in which the statute of limitations has not run.

***King v. Burrell* – Obamacare Subsidies Are Available to All**

Legal Issue: Can the IRS extend tax-credit subsidies to healthcare coverage purchased through exchanges established by the federal government under provisions of the Patient Protection and Affordable Care Act (the “Affordable Care Act,” or “ACA,” commonly referred to as “Obamacare”)?

Decision, 6 – 3: Yes, Obamacare subsidies are available to individuals who obtain their healthcare coverage through either a state or a federal exchange.

Buried in over a quarter of a million words in the ACA is a provision which states that tax-credit subsidies are available to individuals who sign up for healthcare coverage “through an exchange established by the state.” After the ACA was passed, 34 states opted not to establish their own healthcare exchanges, leaving their residents to use the federally established healthcare exchange to obtain their coverage. The *King* case challenged the validity of federal subsidies given to these residents since the ACA appeared to limit subsidies only to individuals who relied on a state-established exchange. Writing for the majority, Chief Justice John Roberts stated, “We doubt that is what Congress meant to do.” Thus, the Supreme Court upheld the validity of subsidies given to residents of the 34 states that use the federal healthcare exchange.

Planning Tip: While there are still several cases challenging parts of the ACA winding their way through the U.S. court system, the *King* case was the linchpin to upholding the law. Nonetheless, with not one Republican voting for Obamacare and the 2016 presidential election fast approaching, advisors need to be aware that the Obamacare debate will not be disappearing any time soon but will continue to be hashed out in the political arena.

***Obergefell v. Hodges* – Same-sex Marriage is Legal Everywhere in the United States**

Legal Issue: Does the Fourteenth Amendment of the U.S. Constitution require a state to license so-called same-sex marriages and recognize those marriages that are legally licensed and performed in another state?

Decision, 5 – 4: Yes, same-sex marriages are legal and must be recognized everywhere in the United States.

The *Obergefell* case involved the consolidation of four cases that challenged state-banned recognition of same-sex marriages in Kentucky, Michigan, Ohio and Tennessee. The Supreme Court had three choices to make with regard to same-sex marriage: (1) overturn state bans; (2) uphold state bans; or (3) uphold state bans but require states to recognize marriages legally

performed in other states. Relying on the Due Process and Equal Protection Clauses of the Fourteenth Amendment, the Court held that marriage is a fundamental liberty and denying the right of same-sex couples to wed would deny them equal protection under the law.

Planning Tip: Now like traditional couples, same-sex couples who are considering marriage need to determine whether it is in their best interests to enter into prenuptial agreements. Further, same-sex couples who are already married need to determine whether their estate planning documents need to be amended in light of the *Obergefell* decision's nationwide authorization of same-sex marriage.

The Bottom Line on the *Wynne*, *King* and *Obergefell* Decisions

Although the latest session of the Supreme Court has come to an end, how the *Wynne*, *King* and *Obergefell* decisions will affect tax planning, financial planning, premarital and postmarital planning, and estate planning has just begun. We are available to answer your questions about these landmark cases and how they will affect your clients.