

LEGAL NEWS

Class-action lawsuit over Md. 'piggyback tax' dismissed

Plaintiffs' attorney plans appeal, says jurisdiction was correct

By ANAMIKA ROY

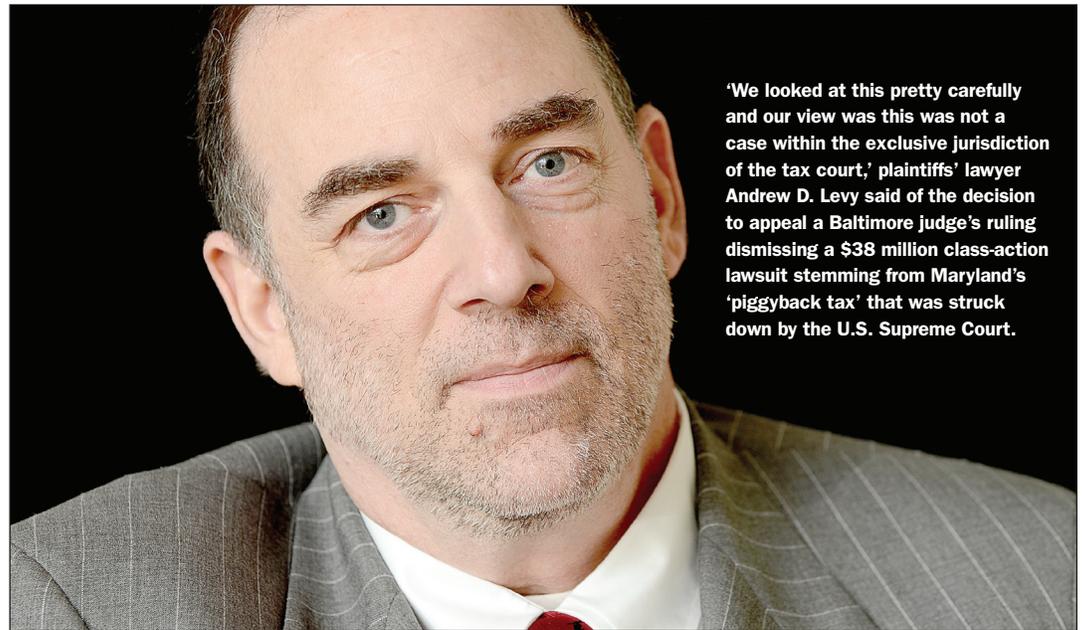
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An attorney representing a class of Maryland taxpayers who sued in the wake of the U.S. Supreme Court striking down the state's "piggyback tax" said his clients plan to appeal a Baltimore judge's dismissal of the \$38 million lawsuit.

The plaintiffs claimed the state wrongly changed the law to lower the amount of interest it would owe people who became entitled to tax refunds after the Supreme Court, in May 2015, found unconstitutional a state law barring Marylanders from deducting from city or county taxes any income tax they paid to other states on money earned there.

"It's a case that we certainly anticipated would have to be resolved by the Court of Appeals eventually anyway so we're going to appeal," said Andrew D. Levy of Brown, Goldstein & Levy, LLP in Baltimore, one of the plaintiffs' lawyers.

Following the high court's decision in *Maryland Comptroller v. Wynne*, lawmakers changed the law by lowering the amount of interest the state would pay on tax refunds from 13 percent to 3.25 percent and



'We looked at this pretty carefully and our view was this was not a case within the exclusive jurisdiction of the tax court,' plaintiffs' lawyer Andrew D. Levy said of the decision to appeal a Baltimore judge's ruling dismissing a \$38 million class-action lawsuit stemming from Maryland's 'piggyback tax' that was struck down by the U.S. Supreme Court.

applied it retroactively to people who requested tax refunds before 2014. The plaintiffs' lawsuit, filed in November 2015, alleged the amended law violates the takings and due process clauses of the U.S. Constitution.

But Baltimore City Circuit Judge Yvette M. Bryant dismissed the lawsuit Jan. 16, holding the plaintiffs had to exhaust administrative remedies first and should have filed suit in Maryland Tax Court instead of the circuit court.

"We looked at this pretty carefully and our view was this was not a case within the exclusive jurisdiction of the tax

court," Levy said.

Bryant ruled the lawsuit did not satisfy requirements for a class action even if the case could have been heard in circuit court.

But Levy said the case is appropriate for class-action status because, as Bryant acknowledged, many of the claims would not be viable individually because of the amounts at issue.

Bryant also agreed the state's effort to apply lower interest rates to claims under *Wynne* was discriminatory and therefore unconstitutional under the dormant Commerce Clause, according to the order.

A spokesman for Comptroller Peter Franchot said the office is pleased with the circuit court decision but declined to comment further because other cases based on *Wynne* are pending in Maryland Tax Court.

Franchot and Gov. Larry Hogan had anticipated that the lower interest rate might prompt litigation at a news conference in September 2015. Hogan said at the time that roughly 55,000 taxpayers were eligible for the refund, and the total amount of interest refunded could add up to more than \$200 million.

The Associated Press contributed to this report.