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No. 13-485

IN THE

Supreme Court of the United States

COMPTROLLER OF THE TREASURY
OF MARYLAND,

Petitioner,

v.

BRIAN WYNNE, *et ux.*,

Respondents.

ON WRIT OF CERTIORARI TO THE
COURT OF APPEALS OF MARYLAND

BRIEF FOR THE NATIONAL FEDERATION OF INDEPENDENT BUSINESS SMALL BUSINESS LEGAL CENTER AND THE NATIONAL ASSOCIATION OF HOME BUILDERS AS AMICI CURIAE IN SUPPORT OF RESPONDENTS

KAREN R. HARNED
ELIZABETH MILITO
NATIONAL FEDERATION OF
INDEPENDENT BUSINESS
SMALL BUSINESS LEGAL CENTER
1201 F Street, N.W., Suite 200
Washington, D.C. 20004
(202) 314-2061

DEVALA JANARDAN
NATIONAL ASSOCIATION OF
HOME BUILDERS
1201 15th Street, N.W.
Washington, D.C. 20005
(202) 266-8335

STEVEN G. BRADBURY
Counsel of Record
STEVEN A. ENGEL
MICHAEL J. RUFKAHR
ELLIOTT R. CURZON
DECHERT LLP
1900 K Street, N.W.
Washington, D.C. 20006
(202) 261-3483
steven.bradbury@dechert.com

Counsel for Amici Curiae

255465

QUESTION PRESENTED

Does the Commerce Clause permit a State to apply a substantial component of its individual income tax to a resident's income earned from a multistate business without permitting any form of apportionment to avoid the multiple taxation of interstate commerce?

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INTEREST OF *AMICI CURIAE*[1]

The National Federation of Independent Business ("NFIB") is the Nation's leading small business advocacy association, representing more than 350,000 member businesses in all fifty States and the District of Columbia. NFIB's members range from sole proprietors to firms with hundreds of employees, and collectively they reflect the full spectrum of America's small business owners. Founded in 1943 as a nonpartisan organization, NFIB defends the freedom of small business owners to operate and grow their businesses and promotes public policies that recognize and encourage the vital contributions that small businesses make to our national economy. On the subject of taxes in particular, NFIB is committed to advocating for federal and state policies that provide tax relief, consistency, and certainty for small business owners across the United States.

NFIB's Small Business Legal Center is a nonprofit public interest law firm that provides legal resources to NFIB's members and serves as the voice of small business in the courts. Through its Small Business Legal Center, NFIB has asserted claims in court to protect the interests of small business owners—*see, e.g.*, *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. ___, 132 S. Ct 2566 (2012)—and frequently files amicus briefs in cases of consequence to America's small businesses, including in this Court. *See,*

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1. All parties have consented to the filing of this brief in letters on file with the Clerk of the Court. No counsel for a party has authored this brief in whole or in part, and no person other than *amici curiae*, their members, and their counsel has made a monetary contribution to the preparation or submission of this brief. *See* Sup. Ct. R. 37.

e.g., Br. for NFIB Legal Center as *Amicus Curiae* in Support of Resps., in *NLRB v. Noel Canning*, No. 12-1281 (U.S. filed Nov. 25, 2013); Br. for NFIB Legal Center as *Amicus Curiae* in Support of Resps., in *Christopher v. SmithKline Beecham Corp.*, No. 11-204 (U.S. filed Mar. 26, 2012).

The National Association of Home Builders ("NAHB") is a Washington, D.C.-based trade association whose mission is to enhance the legal and economic climate for the home-building industry. Chief among NAHB's missions is to provide and expand opportunities for all people to have safe, decent, and affordable housing. Founded in 1942, NAHB is a federation of more than 800 state and local associations. About one-third of NAHB's more than 160,000 members are home builders or remodelers, and its builder members construct about 80 percent of the new homes each year in the United States.

Amici are submitting this brief because the present case raises an issue of vital importance to their members and to all of America's small businesses. By denying residents who own small businesses a tax credit for income taxes paid to other States, Maryland's income tax scheme guarantees that small business owners whose businesses engage in interstate commerce are subjected to multiple, overlapping taxation. If all States adopted tax schemes like Maryland's, the disproportionate tax burden on the income of small multistate enterprises would destroy the incentives of America's small business owners to engage in interstate commerce—a result impossible to square with the Commerce Clause of the Constitution and with the Founders' vision of a single national commercial union.

BACKGROUND

This Court has consistently held that the Commerce Clause requires state taxes on corporate income to be fairly apportioned among the various taxing States to avoid multiple taxation of interstate commerce. The present case requires the Court to decide whether the same established rule also governs when a State taxes the interstate income of resident small business owners as individuals. The background facts relevant to the case are these:

1. For individuals who reside in Maryland, there are two components to the State's income tax: the "state tax" component and the "county tax" component, both collected by petitioner the Maryland State Comptroller of the Treasury. *See* Md. Code Ann., Tax-Gen. §§ 10-103, 10-105, 10-106; App. 4. Each component is calculated as a percentage of the taxpayer's adjusted gross income, as reported on the taxpayer's federal tax return, and thus both apply to the individual's total income from all sources, wherever earned. *See* Md. Code Ann., Tax-Gen. §§ 10-101 to 10-103, 10-203. The graduated rates used for the "state" component are the same for all Maryland residents, while the rate used for the "county" component varies depending on the individual taxpayer's county of residence (but may not exceed 3.2 percent). *See id.* § 10-105; *Frey v. Comptroller*, 422 Md. 111, 125-27, 29 A.3d 475, 481-84 (2011).[2]

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2. In lieu of the "county" component, individuals who are subject to Maryland income tax but have no county of residence in Maryland are assessed a "Special Non-Resident Tax" ("SNRT") at a rate equal to the lowest "county" tax rate. Md. Code Ann., Tax-Gen. § 10-106.1; App. 5.

One important difference between the "state" and "county" components of the Maryland individual income tax is critical to this case: Maryland permits the taxpayer to claim a credit against the "state" component for any taxes paid to other States on income attributable to those States, provided Maryland receives a "state tax" payment that is no less than it would receive if it applied the tax only to the Maryland portion of the taxpayer's income. *See* Md. Code Ann., Tax-Gen. § 10-703(c); App. 5-7. However, Maryland expressly denies any similar credit against the "county" component of the State's individual income tax and thus does not allow any apportionment of the "county tax" to account for taxes paid on the same income to other States. *See* Md. Code Ann., Tax-Gen. § 10-703(a); *Comptroller v. Blanton*, 390 Md. 528, 890 A.2d 279 (2006); App. 7.

As a result, an individual Maryland resident who earns a substantial portion of income from sources outside Maryland, such as the owner of a small business operating in multiple States, must pay the full "county tax" component of the Maryland income tax (up to 3.2 percent of the taxpayer's total adjusted gross income, including out-of-state income), even though the individual also pays a tax on the same income to each of the other States where the income is earned. For this reason, individual residents of Maryland who pay income tax to other States on income earned outside Maryland will inevitably bear a higher overall income tax burden than residents who earn their income entirely within the State of Maryland. *See* App. 19-23. Maryland appears to be the only State that refuses to apportion a significant component of the State's individual income tax by denying resident taxpayers a credit (or any

other form of apportionment) for taxes paid to other States on income attributable to those other States.[3]

2. Respondents are a married couple who resided in Howard County, Maryland, during the relevant tax year and were part-owners of Maxim Healthcare Services, Inc. ("Maxim"), a commercial business founded in Howard County that provides healthcare services throughout the United States. App. 8-9, 55. Maxim qualifies as a "small business corporation" under the Internal Revenue Code and has elected to be treated for federal income tax purposes as an S corporation. *See* 26 U.S.C. § 1361(a) & (b) (defining "S corporation" and the qualifications of a "small business corporation" eligible for tax treatment

3. *See* 1 Walter Hellerstein, *State Taxation* ¶ 20.10 (3d ed. 2013) ("[E]very state with a broad-based personal income tax provides a credit for taxes that their residents pay to other states, thereby reverting the final tax to the state that is the source of the taxed income.") (footnote omitted); 2 CCH All States Tax Guide ¶ 15-110 (2003). Two States that assess only a limited personal income tax on income from intangibles, New Hampshire and Tennessee, do not grant such a credit. *See* Hellerstein, *supra*, ¶ 20.10 n.737. As petitioner's *amici* point out, some cities and other local taxing authorities assess income taxes on their residents without granting a full credit for taxes paid to other jurisdictions. *See* Br. for Int'l Muni. Lawyers Ass'n, *et al.*, as *Amici Curiae* in Support of Petr. ("IMLA Br.") 17-18 (citing tax provisions). In addition, Wisconsin denies a credit for income taxes paid "to a county, city, village, town or foreign country," Wisc. Admin. Code Tax § 2.955(3)(d), and North Carolina denies a credit to *non-resident* taxpayers for a tax paid on income earned in another State or foreign country that is assessed on the basis of residency or domicile, N.C. Gen. Stat. § 105-153.9(a)(1). It is inaccurate to suggest, as petitioner's *amici* do, that these tax credit provisions are "similar" to Maryland's, IMLA Br. 17.

as an S corporation). Under the federal tax code, the business income and losses of an S corporation, like that of a partnership, are "passed through," subject to certain limitations, to the owners of the business, who are then taxed on the income of the business as if they earned it directly. *See id.* §§ 1363, 1366. Like the federal government, Maryland also taxes the business income of S corporations on a pass-through basis, treating it as the individual income of the owners. *See* App. 8; Md. Code Ann., Tax-Gen. §§ 10-102.1, 10-104(6), 10-304(3).

During the relevant tax year of 2006, respondent Brian Wynne was one of seven owners of Maxim and held 2.4 percent of its stock. App. 9. Much of respondents' reported income for 2006 was pass-through income of Maxim, and a substantial portion of Maxim's income was generated in other States. *See id.* at 9, 56. Maxim filed state income tax returns in 39 States, and respondents were allocated a pro-rata share of the taxes paid to the various States on Maxim's income. *Id.* at 9. Respondents claimed a credit on their 2006 Maryland tax return for their allocated share of the income taxes paid to other States. *Id.* Petitioner allowed them a credit against the "state" component of the Maryland individual income tax but denied any credit against the "county" component, and respondents appealed. *Id.* at 9-10.

3. The Maryland Tax Court affirmed the tax assessment, App. 130-41, but the Circuit Court for Howard County reversed, agreeing with respondents that the State's denial of a tax credit unfairly discriminates against interstate commerce in violation of the Commerce Clause. App. 53-129. The Court of Appeals of Maryland affirmed. App. 1-49. The court concluded that Maryland's

denial of the tax credit results in "significantly different treatment for a Maryland resident taxpayer who earns substantial income from out-of-state activities when compared with an otherwise identical taxpayer who earns income entirely from Maryland activities" and therefore "creates a disincentive" for the owners of S corporations and other small businesses in Maryland to engage in commerce in other States. *Id.* at 16. For these reasons, the court held that Maryland's tax scheme violates the Commerce Clause requirements of fair apportionment and non-discrimination applied by this Court in *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977), and subsequent cases. *See* App. 17-32.

SUMMARY OF ARGUMENT

The judgment of the Maryland Court of Appeals should be affirmed. Maryland's individual income tax is unconstitutional as applied to resident small business owners whose income derives from multistate business activities.

1. This Court's precedents firmly establish that when States tax the income or activities of a multistate business enterprise, including through a corporate income tax, "[t]he Commerce Clause forbids States to levy taxes that discriminate against interstate commerce or that burden it by subjecting activities to multiple or unfairly apportioned taxation." *MeadWestvaco Corp. v. Ill. Dep't of Revenue*, 553 U.S. 16, 24 (2008); *see Container Corp. of Am. v. Franchise Tax Bd.*, 463 U.S. 159, 169-71 (1983). There is no sound basis to apply a different principle when States tax the income of a small business, like a partnership or S corporation, by taxing the owners of the business on a pass-through basis.

2. Maryland's decision to deny a credit against the "county" portion of the State's income tax for income taxes paid to other States by small business owners in Maryland is inconsistent with the Commerce Clause principle of fair apportionment. The Maryland tax scheme inevitably results in double taxation of business income and a substantially greater tax burden for small businesses that derive their income from interstate commerce versus purely local, intrastate businesses. If all States followed Maryland's lead, the freedom of commerce across state borders would be substantially encumbered because small business owners would be financially discouraged from expanding into out-of-state markets.

3. In addition, by expressly limiting any credit for out-of-state taxes paid by small business owners and thereby ensuring a greater tax burden for owners of multistate businesses, the Maryland individual income tax "facially discriminate[s] against interstate commerce," *Okla. Tax Comm'n v. Jefferson Lines, Inc.*, 514 U.S. 175, 200 (1995) (Scalia, J., concurring in judgment), and this discrimination alone provides a sufficient basis to conclude that the State's tax scheme violates the Commerce Clause without regard to principles of fair apportionment. *See id.* at 200-01; *see also Maryland v. Louisiana*, 451 U.S. 725, 756-57 (1981).

ARGUMENT

MARYLAND'S INDIVIDUAL INCOME TAX IS UNCONSTITUTIONAL AS APPLIED TO SMALL BUSINESS OWNERS WHOSE INCOME IS EARNED FROM BUSINESS ACTIVITIES IN OTHER STATES

The Commerce Clause, U.S. Const. Art. I, § 8, cl. 13, was designed to promote "the welfare of the Nation as a whole" by securing a free-trade zone for commerce among the States and avoiding "the tendencies toward economic Balkanization that had plagued relations among the Colonies and later among the States under the Articles of Confederation." *Okla. Tax Comm'n v. Jefferson Lines, Inc.*, 514 U.S. at 179-80 (internal quotation marks omitted); *see Am. Trucking Ass'ns, Inc. v. Mich. Pub. Serv. Comm'n*, 545 U.S. 429, 433 (2005); The Federalist Nos. 7 (A. Hamilton), 11 (A. Hamilton), & 42 (J. Madison).

Just as surely as "the power to tax involves the power to destroy," *M'Culloch v. Maryland*, 17 U.S. 316, 431 (1819), Maryland's assumption of power to impose overlapping taxation on the multistate income of small business owners is a direct and intolerable threat to the free market of interstate commerce envisioned by the Framers of the Constitution. If Maryland may exercise this overreaching taxing power, all States may adopt the same scheme, and the result will be the destruction of incentives for small business owners to expand their operations across state lines.

A. The Commerce Clause Requires that State Taxes on Multistate Business Income Be Fairly Apportioned to Avoid Multiple Taxation of Interstate Commerce, and the Same Principle Applies with Equal Force When States Tax Small Business Income on a Pass-Through Basis

There is no doubt that if Maryland taxed the business income of respondents' company at the corporate level, rather than on a pass-through basis, Maryland's refusal to allow a credit (or any other means of apportionment) for taxes paid to other States on income earned by Maxim in those States would violate the Commerce Clause.

This Court has repeatedly held that when a State taxes the corporate income or activities of a "unitary business" operating in interstate commerce, the Commerce Clause requires the State to "apply a formula apportioning the income of that business within and without the State." *Container Corp.*, 463 U.S. at 169. "[T]he central purpose behind the apportionment requirement is to ensure that each State taxes only its fair share of an interstate transaction." *Goldberg v. Sweet*, 488 U.S. 252, 260-61 (1989); *see Mobil Oil Corp. v. Comm'r of Taxes of Vt.*, 445 U.S. 425, 445-46 (1980) ("[T]here is no reason in theory why that power [the taxing power of the State of domicile] should be exclusive when the dividends reflect income from a unitary business, part of which is conducted in other States. In that situation, the income bears relation to benefits and privileges conferred by several States. These are the circumstances in which apportionment is ordinarily the accepted method.").

This Court judges the adequacy of an apportionment formula using the so-called "internal consistency" test. *See, e.g.*, *Container Corp.*, 463 U.S. at 169. "To be internally consistent, a tax must be structured so that if every State were to impose an identical tax, *no multiple taxation would result*." *Goldberg*, 488 U.S. at 261 (emphasis added). A second, related test of fair apportionment is "external consistency," which "asks whether the State has taxed only that portion of the revenues from the interstate activity which reasonably reflects the in-state component of the activity being taxed." *Id.* at 262.

One recognized benchmark method for assuring fair apportionment of a State's corporate income tax is the so-called "three-factor" formula reflected in the Uniform Division of Income for Tax Purposes Act, a uniform act adopted in most States that keys off the proportion of a business's sales, property, and payroll attributable to the taxing State. *See Container Corp.*, 463 U.S. at 164-65, 170.[4] Maryland itself applies this three-factor apportionment methodology when taxing business income under Maryland's corporate income tax code. *See* Md. Code Ann., Tax-Gen. § 10-402; 3 Md. Code Regs. § 4.03

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4. The apportionment formula described in the Uniform Division of Income for Tax Purposes Act is an evenly weighted three-factor formula consisting of property, payroll, and sales factors. Today, many States use a variation of this formula whereby the sales factor is double-weighted, resulting in an apportionment formula that consists of a 25%-weighted property factor, a 25%-weighted payroll factor, and a 50%-weighted sales factor. Also, a considerable number of States use a single-factor apportionment formula that consists only of a sales factor. These variations on the apportionment formula described in the Uniform Division of Income for Tax Purposes Act are likewise designed to achieve fair apportionment, and their use does not alter our analysis.

(specifying that corporations engaged in multistate operations are to allocate income to Maryland based on the extent of the corporation's sales, property, and payroll activity in Maryland).

Another established and widely used mechanism for avoiding improper double taxation, of course, is the one Maryland has denied respondents—a credit for taxes paid to other States. *See D.H. Holmes Co., Ltd. v. McNamara*, 486 U.S. 24, 31 (1988) ("The Louisiana taxing scheme is fairly apportioned, for it provides a credit against its use tax for sales taxes that have been paid in other States.").

In applying these Commerce Clause principles, there is no legitimate basis to treat small business owners and their income differently from large corporations. The income of respondents' business Maxim, for example, is just as much business income derived from multistate commercial activities as is the income of the largest C corporation. It does not matter whether the corporation's income is taxed by a State at the corporate level (as would be the case in Maryland if Maxim were organized as a C corporation) or, as in this case, at the shareholder level and treated as the direct personal income of the business's owners.

Petitioner asserts that the purpose of the "county" component of Maryland's personal income tax is to compensate the State and its local jurisdictions for the benefits of residency conferred on individual taxpayers, and petitioner argues that this purpose justifies the denial of a tax credit for income tax payments made to other States on respondents' out-of-state income. Pet. Br. 20-24; *see* U.S. Br. 16-19. But the State of residency's interest in

funding the costs of local services cannot support a broad carve-out or exemption from the Commerce Clause's established requirement of fair apportionment in state taxation of multistate business income. *See D.H. Holmes Co.*, 486 U.S. at 29-30 ("The distinction between the power of the State [of domicile] to shelter its people from menaces to their health or safety and from fraud, even when those dangers emanate from interstate commerce, and its lack of power to retard, burden or constrict the flow of such commerce for their economic advantage, is one deeply rooted in both our history and our law.") (internal quotation marks omitted). States, in other words, may not fund local needs by imposing income taxes on interstate commerce that stifle the national free-trade zone protected by the Constitution. Petitioner's contention that Maryland must have the unfettered ability to tax the out-of-state income of residents in order to fund local state services proves too much, because corporations also make use of local services and yet this Court has held that a State may not subject corporations to double taxation.

B. Maryland's Refusal to Allow a Credit for Income Taxes Paid to Other States by Small Business Owners in Maryland Inevitably Results in Multiple Taxation on Small Businesses Engaged in Interstate Commerce in Violation of the Commerce Clause

In applying the "county" component of its individual income tax to income earned by small business owners whose businesses engage in interstate commerce, Maryland has made no effort whatsoever to apportion the tax so as to avoid double taxation of income and to limit the application of its tax to a fair measure of the portion

of the taxpayer's income that is reasonably attributable to Maryland. This denial of a tax credit will inevitably result in a significantly higher overall income tax burden for owners of multistate businesses versus those who confine their business activities entirely within Maryland.

The example laid out by the Maryland Court of Appeals shows in clear and simple terms how a Maryland resident who pays income tax to one or more other States on income earned from business activities in those other States will necessarily pay significantly more in income taxes than resident owners of wholly local, intrastate Maryland businesses. *See* App. 20-22. This differential financial burden follows from the assessment of income tax by both Maryland and one or more other States to income earned by the taxpayer outside Maryland, and therefore occurs by virtue of the interaction of Maryland's tax with the income tax laws of other States; nevertheless, the differential is caused by double taxation that is the inevitable and foreseeable product of the Maryland Legislature's policy decision to tax out-of-state business income by denying any tax credit against (or other method of apportionment for) the "county" portion of the Maryland income tax.[5]

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5. Contrary to the assertion of petitioner's *amici*, *see* IMLA Br. 5-6, respondents are not arguing for "a single bright-line" constitutional rule requiring States in all circumstances to grant "a full dollar-for-dollar credit for foreign income taxes." Rather, to be consistent with the Commerce Clause, a state income tax on multistate business income must incorporate some method of apportionment reasonably designed to avoid double taxation, and the substantial "county" component of Maryland's income tax violates this principle because it includes no mechanism for apportionment at all, whether a credit or otherwise.

The disparate tax burden falling on resident taxpayers who own multistate businesses will obviously discourage Maryland residents from starting or expanding interstate businesses. If Maryland is free to tax all out-of-state business income earned by its residents without limitation—without any credit or other means for apportioning its tax burden with the income taxes assessed by other States on income appropriately attributable to those other States—then all States may do the same, and the resulting rampant compound taxation of business owners will dramatically suppress incentives for American entrepreneurs to engage in cross-border commercial activities. "By encouraging economic isolationism," such an overreaching tax scheme manifestly entails "the very evil" that the Framers designed the Commerce Clause to prevent. *Camps Newfound/Owatonna, Inc. v. Town of Harrison*, 520 U.S. 564, 578 (1997).

C. Maryland's Denial of a Tax Credit Facially Discriminates Against Small Business Owners Who Choose to Operate Multistate Businesses Rather than Limit Their Business Activities to Intrastate Commerce

By expressly limiting the credit for taxes paid on income generated outside Maryland to the "state" component of the Maryland income tax and thereby denying any such credit when applying the "county" component, Maryland's income tax code discriminates on its face against taxpayers who generate their income from interstate commerce.[6] The express limitation of

6. The Maryland code states that "a resident may claim a credit *only against the State income tax* for a taxable year . . . for State tax on income paid to another state for the year," Md. Code Ann., Tax-Gen. § 10-703(a) (emphasis added), and the Maryland

the credit to only one part of the income tax means that individuals who own small businesses like S corporations and partnerships and who choose to engage in business across state lines will incur a greater income tax burden than those who choose to confine their business activities to Maryland.

This facial discrimination against interstate commerce is anathema to our federal commercial union and must be rejected under any theory of the "negative" Commerce Clause, without regard to the other factors enumerated in *Complete Auto Transit* and its progeny. "State [tax] laws discriminating against interstate commerce on their face are virtually *per se* invalid." *Fulton Corp. v. Faulkner*, 516 U.S. 325, 331 (1996) (internal quotation marks omitted).

In *Fulton Corp. v. Faulkner*, a unanimous Court struck down as facially discriminatory a North Carolina "intangibles tax" applied to the value of corporate stock owned by state residents that included a deduction based on the fraction of the issuing corporation's income that was subject to North Carolina tax. The result was that residents who owned stock of corporations doing business within North Carolina could claim the deduction, while the stock of corporations engaged entirely in business outside North Carolina was taxed at 100 percent of its value. *Id.* at 328. "There is no doubt that the intangibles tax facially discriminates against interstate commerce," the Court held, because "[a] regime that taxes stock only

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Court of Appeals has construed the highlighted language to mean that "[n]o credit is given against the county tax for income paid in other states." App. 7; *see Comptroller v. Blanton*, 390 Md. 528, 890 A.2d 279 (2006).

to the degree that its issuing corporation participates in interstate commerce favors domestic corporations over their foreign competitors in raising capital among North Carolina residents and tends, at least, to discourage domestic corporations from plying their trades in interstate commerce." *Id.* at 333. *See West Lynn Creamery, Inc. v. Healy*, 512 U.S. 186, 210 (1994) (Scalia, J., concurring in judgment) (agreeing that negative Commerce Clause invalidates any state tax or other assessment that "facially discriminates against interstate commerce," whether in the initial assessment, in the granting of exemptions (like credits), or in the distribution of refunds or subsidies from the assessment); *see also Okla. Tax Comm'n v. Jefferson Lines, Inc.*, 514 U.S. at 200 (Scalia, J., concurring in judgment).

Whether a state tax is facially discriminatory "must be assessed in light of its actual effect considered in conjunction with other provisions of the State's tax scheme," and the Court's inquiry asks whether the State's tax code "will in its practical operation work discrimination against interstate commerce." *Maryland v. Virginia*, 451 U.S. at 756 (internal quotation marks omitted); *see id.* ("In this case, the Louisiana First-Use Tax unquestionably discriminates against interstate commerce in favor of local interests as the necessary result of various tax and exclusions."). Where, as in the present case, "[t]he obvious effect of" the State's scheme of limited tax credits "is to encourage [business] owners . . . to invest" in commercial activities within the State "rather than to invest in [similar business activities] in other States," this Court has had no difficulty condemning the scheme as discriminatory in contravention of the Commerce Clause. *Id.* at 757.

CONCLUSION

For the foregoing reasons, *amici curiae* the National Federation of Independent Business Small Business Legal Center and the National Association of Home Builders urge the Court to affirm the judgment of the Maryland Court of Appeals.

Respectfully submitted,

Karen R. Harned
Elizabeth Milito
National Federation of Independent Business Small Business Legal Center
1201 F Street, N.W., Suite 200
Washington, D.C. 20004
(202) 314-2061

Devala Janardan
National Association Of Home Builders
1201 15th Street, N.W.
Washington, D.C. 20005
(202) 266-8335

Steven G. Bradbury
Counsel of Record
Steven A. Engel
Michael J. Rufkahr
Elliott R. Curzon
Dechert LLP
1900 K Street, N.W.
Washington, D.C. 20006
(202) 261-3483
steven.bradbury@dechert.com

Counsel for Amici Curiae

September 26, 2014