



Joseph W. Testa, Tax Commissioner

Issued: July 2, 2015

## **Employer Withholding - Information Release**

### **EW 2015-01 – To Rescind Information Release EW 2013-01 and Provide Guidance for Employers Providing Benefits to Employees Who are Married- Issued July 2, 2015**

#### *Introduction*

This information release offers new guidance to employers regarding the treatment of employee benefits provided to all employees who are married.

#### *New Guidance*

On June 26, 2015, the U.S. Supreme Court issued a ruling on the constitutionality of Article XV §11 of the Ohio Constitution. As a result, the Ohio Department of Taxation has withdrawn information release EW 2013-01 - *Guidelines for Employers Providing Benefits to Employees Married in a Jurisdiction That Recognizes Same-Gender Marriage* - Issued Nov. 14, 2013, which is no longer effective. As of June 26, 2015, Ohio employers must determine employer-provided benefits for Ohio employer withholding purposes in a manner consistent with IRS Revenue Ruling 2013-17, IRS Notice 2013-61 and U.S. Department of Labor Technical Release No. 2013-04. Therefore, Ohio employers may now recognize any lawful marriage when determining an employee's Ohio taxable gross earning amounts reported on box 16 of federal Form W-2.

This new guidance is effective for all of tax year 2015 and all subsequent tax years. To the extent that an employer, in following the guidance in EW 2013-01, will have over-withheld or under-withheld for tax year 2015, the employer shall reconcile the difference on the Ohio Employer's Annual Reconciliation of Income Tax Withheld (form IT 941). Provided that form IT 941 reflects the proper amount of tax due for tax year 2015, and that amount is remitted timely along with the properly completed IT-941, no penalties will be billed or assessed as a result of the amounts not being previously paid.

#### *Questions?*

Taxpayers may visit [www.tax.ohio.gov](http://www.tax.ohio.gov). Questions may be submitted by clicking on the "Contact" link found at the top right of the page and then choosing the "Email Us" option. Taxpayers with additional questions regarding this subject may contact Individual Income Taxpayer Services at 1-800-282-1780.