



Joseph W. Testa, Tax Commissioner

Issued: July 2, 2015

## Individual Income Tax - Information Release

### **IT 2015-01 – To Rescind Information Release IT 2013-01 and Provide Guidance for Taxpayers Filing a Joint or “Married Filing Separately” Federal Income Tax Return- Issued July 2, 2015**

#### *Introduction*

This information release offers guidance to all taxpayers who are filing a joint or “married filing separately” federal income tax return and who are filing an Ohio income tax return meeting the following criteria:

- Original Ohio return for taxable year 2013 and earlier filed on or after September 16, 2013 (the date prescribed in IRS Revenue Ruling 2013-17).
- Original Ohio return filed for taxable years 2014 and after.

#### *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 As a result, the Ohio Department of Taxation has withdrawn information release IT 2013-01 - *Filing Guidelines for Taxpayers Filing a Joint or “Married Filing Separately” Federal Income Tax Return With Someone of the Same Gender* - Issued Oct. 11, 2013 - Revised Dec. 19, 2013, which is no longer effective as of June 26, 2015. The following guidelines are now applicable:

- Ohio Schedule IT-S entitled, *Federal Adjusted Gross Income to be Reported by Same-Gender Taxpayers Filing a Joint or Married Filing Separately Federal Return*, is no longer available or required to be filed as of June 26, 2015. As such, the checkbox “Required to file Schedule IT-S” on the 2014 form should be ignored.
- All married individuals shall use the filing status of “married filing jointly” or “married filing separately” when filing Ohio Form IT 1040.
- Ohio taxpayers who filed original Ohio returns on or after October 11, 2013 using Ohio Schedule IT-S may amend those returns to reflect the same status and federal AGI as their corresponding federal returns.

- IRS Revenue Ruling 2013-17 permitted same-gender married couples to file amended federal returns to change filing status to “married filing jointly” or “married filing separately”. For such amended federal returns filed, corresponding Ohio amended returns must also be filed on or after June 26, 2015 to change Ohio filing status for such prior years. Ohio amended returns concerning this issue for years not permitted to be amended for federal purposes under IRS Revenue Ruling 2013-17 will not be accepted.
- Based on the Holdings of IRS Revenue Ruling 2013-17, Ohio will:
  - Interpret the terms ‘spouse,’ ‘husband and wife,’ ‘husband,’ and ‘wife’ to include individuals lawfully married in any jurisdiction, and the term ‘marriage’ to include all lawful marriage.
  - **NOT** interpret the terms ‘spouse,’ ‘husband and wife,’ ‘husband,’ and ‘wife’ to include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship recognized under state law that is not denominated as a marriage under the laws of that state, or the term ‘marriage’ to include such formal relationships.
- As a result of the decision, certain spousal benefits provided by an employer will now be subject to employer withholding. To that end, additional amounts may be withheld by your employer to cover the tax consequences of these additional benefits. For more information, please see Information Release EW 2015-01.

### *Questions?*

Taxpayers may visit [www.tax.ohio.gov](http://www.tax.ohio.gov) for more information. 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.