

Ohio Employer Withholding Tax General Guidelines

Who Must Register

All employers maintaining an office or transacting business in Ohio and required to withhold federal income tax must register by completing and filing form IT 1, Application for Registration as a Withholding Agent, with the Ohio Department of Taxation.

An Ohio withholding account number will be assigned to new withholding agents after registration. All forms and correspondence must reflect this account number.

The information required for registration includes:

1. Name;
2. Trade name, if any;
3. Address and/or business address;
4. Ohio liquor permit number (if applicable);
5. Federal employer identification number;
6. Type of business and business code;
7. Date payroll anticipated; and
8. Name(s) and title(s) of the individual(s) responsible for filing returns and making payment of Ohio withholding tax.

All employers who become liable for withholding Ohio income tax must file form IT 1 within 15 days of the date that such liability begins.

Who Must Withhold

Every employer maintaining an office or transacting business within the state of Ohio and making payments of any compensation to an employee, whether a resident or nonresident, must withhold Ohio income tax.

Withholding is not required if the compensation is paid for or to:

1. Agricultural labor as defined in Division G of Section 3121 of Title 26 of the United States Code;
2. Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority;
3. Service performed in any calendar quarter by an employee unless the cash remuneration paid for such service is \$300 or more and such service is performed by an individual who is ordinarily employed by such employer to perform such service;
4. Services performed for a foreign government or international organization;
5. Services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution or when performed by such individual under the age of 18 under an arrangement where newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which newspapers or magazines are charged to him;
6. Services not in the course of the employer's trade or business to the extent paid in any medium other than cash;

7. Residents of Michigan, Indiana, Kentucky, West Virginia, and Pennsylvania, due to reciprocal agreements with Ohio.

Who Is an Employee for Withholding Purposes

Every individual who performs services subject to either the control and/or will of an employer, whether as to what shall be done and/or how it shall be done, is an employee for purposes of Ohio income tax. It does not matter that the employer permits the employee considerable discretion and freedom of action, so long as the employer has the legal right to control either the method and/or result of the services.

All employees, except residents of Michigan, Indiana, Kentucky, West Virginia and Pennsylvania, who work in and/or perform personal services in Ohio are subject to withholding of Ohio income tax to the extent of compensation paid for their services in Ohio.

Reports and Forms That Must Be Filed

1. Ohio Withholding Exemption Certificate

Each employee must complete a Withholding Exemption Certificate (IT 4) or the employer shall withhold tax from the employee's compensation without exemption.

2. Ohio Quarterly or Monthly Withholding Tax Payment Coupon Book or EFT Quarterly Reconciliation Book

The employer will receive a book containing the necessary withholding forms with the filing frequency based on the 12-month period ending June 30 of the preceding calendar year. Employers subject to withholding must make quarterly or monthly payments (excluding EFT) on form IT 501 to the Ohio Department of Taxation with remittance made payable to the Ohio Treasurer of State in the amounts required to be withheld.

Quarterly payments must be remitted by coupon no later than the last day of the month following the end of the calendar quarter if, during the 12-month period ending June 30 of the preceding calendar year, less than \$2,000 was withheld. Employers who registered on or after July 1st of the preceding calendar year will also remit quarterly, unless notified otherwise.

Monthly payments must be remitted by coupon no later than 15 days following the end of each month if, during the 12-month period ending June 30 of the preceding calendar year, the withholding was greater than \$2,000 but less than \$84,000.

EFT (Electronic Funds Transfer) – An employer whose actual or required payments (excluding school district income tax) during the 12-month period ending June 30 of the preceding calendar year exceeded \$84,000 must remit by EFT within three banking days from the end of the partial weekly period in which an employer had payroll.

There are two partial weekly withholding periods each week that consists of a consecutive Saturday, Sunday, Monday and

Tuesday or a consecutive Wednesday, Thursday and Friday. A partial weekly withholding period cannot extend from one year to the next.

Note: If the withholding amount reaches \$100,000 or more during the partial weekly period, payment must be remitted by EFT the next banking day after accumulated.

Ohio Annual Report

1. To Employees (IT 2, Combined W-2 or 1099R). For Ohio purposes on or before Jan. 31 of the succeeding calendar year, employers required to withhold shall furnish to all employees on whom tax was or should have been withheld, two copies of the report of compensation paid during the calendar year and of the amount deducted and withheld as tax. Employers may use Ohio form IT 2, federal optional form W-2 hereinafter referred to as "Combined W-2," or "1099R."
2. To the Ohio Department of Taxation (IT 941). Employers who are required to withhold quarterly or monthly (excluding EFT) shall file form IT 941, Annual Reconciliation of Income Tax Withheld, on or before Jan. 31 of the succeeding calendar year.
3. To the Ohio Department of Taxation (IT 942). An employer who remits through EFT must submit form IT 942, Employer's EFT Quarterly Reconciliation of Income Tax Withheld, no later than the last day of the month following the end of the calendar quarter. EFT filers are not required to file IT 941.
4. To the Ohio Department of Taxation (IT 3) All employers required to withhold shall file on or before the last day of February of the succeeding calendar year form IT 3, Transmittal of Wage and Tax Statements, together with a list (preferably on adding machine tape) of the income tax withheld. In lieu of form IT 2, Combined W-2 or 1099R the employer may submit the required employee information on magnetic tape. The tape format will be furnished upon request.

Corrections

1. To Employee and the Ohio Department of Taxation (Ohio form IT 2, Combined W-2 or 1099R). An employer must furnish a corrected form IT 2, Combined W-2 or 1099R if, after the original form has been given to an employee, an error is discovered. Corrected statements should be clearly marked "CORRECTED BY EMPLOYER" and one copy should be submitted to the Department of Taxation and two copies to the employee. If form IT 2, Combined W-2 or 1099R is lost or destroyed, two substitute copies must be submitted to the employee and one to the Department of Taxation marked "REISSUED BY EMPLOYER."
2. Over or under withholding – quarterly, monthly (IT 501) and EFT payments (IT 942)
 - a. If the error is discovered in a subsequent period of the same calendar year, indicate the adjustment on the next

form IT 501 payment card or form IT 942 EFT quarterly reconciliation that is filed.

- b. If an error is discovered after the annual reconciliation form IT 941 has been filed, complete an amended reconciliation, form IT 941X for that year. For EFT filers, make an adjustment on the first-quarter IT 942 filed in the following calendar year.

Employer's Liability for Withheld Tax

Each withholding agent is liable for the tax required to be withheld. For purposes of assessment and collection, amounts required to be withheld and paid to the Ohio Department of Taxation are considered to be a tax on the employer. The officer or the employee having control or supervision of or charged with the responsibility of filing the report and making payment shall be held personally liable for any failure to file the report and/or pay the tax as required by law.

Interest and Penalties

If an employer fails to pay the tax deducted and withheld from employees by the due date, interest shall accrue on the unpaid tax at the rate provided for under Ohio Revised Code section 5703.47. Interest on the tax due is charged in addition to any penalty which may be incurred for late filing and/or late payment of a tax due.

If an employer fails to pay the tax deducted and withheld from employees' compensation by the due date, a penalty of 50% may be assessed on the tax due, unless it is shown the failure was for reasonable cause and not willful neglect.

If a return, form IT 501, form IT 941, IT 942 or IT 3 is not filed, or filed after its due date, the penalty is the greater of: \$50 per month up to a maximum of \$500 or 5% per month up to a maximum of 50% of the tax due.

What Records To Keep

Every employer required to withhold Ohio income tax is required to maintain accurate records of all persons from whom tax is collected.

Records must include:

1. Amounts and dates of all compensation paid subject to withholding.
2. Names, addresses, school district of residence, principal county of employment (nonresidents) and social security numbers of all employees receiving such compensation.
3. Periods of employment, including periods during which compensation is paid while absent due to sickness or injury.
4. Amount of compensation paid by pay period.
5. Copies of forms IT 501, IT 941, IT 942 and IT 3 filed with the Ohio Department of Taxation.