

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 one of these three ways:

By Internet: Register online through the Ohio Business Gateway (OBG) at business.ohio.gov and follow the instructions for Ohio Taxation – New Account Registration; OR

By Telephone: Call 1-888-405-4089, listen for the message and then press 2 to connect with an agent; OR

By Paper: Complete Ohio form IT 1, Application for Registration as an Ohio Withholding Agent, and mail it to the address shown on the form or fax it to us at (614) 387-2165.

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

All employers liable for withholding Ohio income tax must register 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 payment 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 regularly 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:

Ohio Withholding Exemption Certificate: Each employee must complete an Ohio form IT 4, Employee's Withholding Exemption Certificate, or the employer shall withhold tax from the employee's compensation without exemption.

Ohio Withholding Tax Returns: Effective Jan. 1, 2015, in accordance with Ohio Administrative Code rule 5703-7-19, employers are required to file state and school district income tax withholding returns and make payment of the withheld taxes through the OBG.

Employers subject to withholding must make payments in the amounts required to be withheld. The withholding tax forms that you file are based on your filing frequency. Monthly and quarterly filers remit state income tax withholding payments on OBG using Ohio form IT 501. Employers who have been approved under the opt out provision to file paper state income tax withholding returns, remit withholding tax payments using Ohio form IT 501, mailed to the Ohio Department of Taxation with remittance made payable to the Ohio Treasurer of State. Partial-weekly filers are required to pay withheld taxes by EFT and do not file or send in form IT 501.

Filing Frequency: An employer's filing and payment frequency for state income tax withholding is determined each calendar year by the combined amount of state and school district taxes that were withheld or required to be withheld during the 12-month period ending June 30 of the preceding calendar year (i.e., the "look-back" period).

Quarterly payments must be remitted with Ohio form IT 501 on OBG by the last day of the month following the end of each calendar quarter, if the combined amount of taxes that were withheld or required to be withheld was \$2,000 or less during the look-back period. Employers who registered on or after July 1 of the preceding calendar year will also remit quarterly, unless notified otherwise.

Monthly payments must be remitted with Ohio form IT 501 on OBG within 15 days following the end of each month, if the combined amount of taxes that were withheld or required to be withheld was greater than \$2,000 but less than \$84,000 during the look-back period.

Partial-weekly payments must be remitted by EFT within three banking days from the end of each partial-weekly period in which the employer had payroll, if the combined amount of taxes that were withheld or required to be withheld was \$84,000 or more during the look-back period.

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 into the next.

Also, partial-weekly filers must file form IT 942, Ohio Employer's Quarterly Reconciliation of Income Tax Withheld, for each calendar quarter on OBG. The form is due no later than the last day of the month following the end of each calendar quarter.

Note: If the tax withheld by an employer during a pay period reaches \$100,000 or more, payment of the accumulated taxes (excluding payment of school district income taxes) is due by the first banking day after the pay date on which the accumulated taxes equal or exceed \$100,000. If the employer is a partial-weekly filer, payment must be made by EFT.

Ohio Annual Report

1. To Employees (forms W-2 or 1099-R). On or before Jan. 31 of the succeeding calendar year, an employer 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 federal form W-2 or 1099-R.
2. To the Ohio Department of Taxation (Ohio form IT 941). An employer who is required to remit quarterly or monthly shall file form IT 941, Ohio Employer's Annual Reconciliation of Income Tax Withheld, on or before Jan. 31 of the succeeding calendar year.
3. To the Ohio Department of Taxation (Ohio form IT 942). An employer who is required to remit partial-weekly shall file form IT 942, Ohio Employer's EFT 4th Quarter/Annual Reconciliation of Income Tax Withheld, no later than the last day of the month following the end of the calendar year. Form IT 942 is filed on OBG. EFT filers do not file form IT 941.
4. To the Ohio Department of Taxation (Ohio form IT 3). An employer 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. Employers are no longer required to send us paper copies of federal form W-2. If the information is not submitted electronically, the Ohio Department of Taxation may request W-2s periodically when conducting compliance programs. If you elect to send your state W-2 information to us on magnetic media, you must comply using an approved format. Employers with 250 or more W-2 Copy A forms must file them electronically using the EFW2 format. Electronic format information is also available on the department's Web site at tax.ohio.gov.

Corrections

1. To Employee and the Ohio Department of Taxation (W-2 or 1099-R). An employer must furnish a corrected W-2 or 1099-R 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 Ohio Department of Taxation and two copies to the employee. If the W-2 or 1099-R is lost or destroyed, two substitute copies must be submitted to the employee and one to the Ohio Department of Taxation marked "REISSUED BY EMPLOYER."

2. Over- or under-withholding – quarterly, monthly (form IT 501) and partial-weekly (form IT 942) filers.
 - a. If the error is discovered in a subsequent period of the same calendar year, make the adjustment by reducing or increasing the tax due on your next form IT 501 or EFT payment.
 - 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, file an amended form IT 942, Ohio Employer's EFT 4th Quarter/Annual Reconciliation of Income Tax Withheld, through OBG.

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 that 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, or Ohio forms IT 501, IT 941, IT 942 or IT 3 is not filed, or is filed after the 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 for a period of four years from the due date.

Records must include:

1. Amounts and dates of all compensation paid and taxes withheld by pay period.
2. Names, addresses, school district of residence, principal county of employment (nonresidents) and Social Security numbers of all employees receiving compensation.
3. Periods of employment, including periods during which compensation is paid while absent due to sickness or injury.
4. Copies of Ohio forms IT 501, IT 941, IT 942 and IT 3 filed with the Ohio Department of Taxation.
5. Forms W-2 and 1099-R.