



# Ohio Legislative Service Commission

## Bill Analysis

Mackenzie Damon

### **S.B. 259**

130th General Assembly  
(As Introduced)

**Sens.** Skindell, Tavares

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## **BILL SUMMARY**

- Requires that opposite-sex and same-sex married couples file their state income tax returns according to the same set of rules.

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## **CONTENT AND OPERATION**

### **State income tax filing rules for same-sex married couples**

The bill requires that opposite-sex and same-sex married couples file their state income tax returns according to the same set of rules. Currently, as discussed below, different filing rules apply to same-sex married couples, because such couples are not permitted to file joint state income tax returns.

Under continuing law, opposite-sex married couples are required to maintain the same filing status for their state income tax return as they elected for their federal income tax return (e.g., a couple that files a joint federal return must file a joint state return). If one or both spouses is not required to file a federal return but is required to file a state return, the spouses may elect either separate or joint filing status.

The bill applies these rules to same-sex married couples.<sup>1</sup> The bill would supersede recent Ohio Department of Taxation guidance that prohibits same-sex couples married in other jurisdictions from filing joint Ohio income tax returns, even if they file joint federal returns.<sup>2</sup> (In August of 2013, the Internal Revenue Service ruled that same-sex couples who are legally married must be treated as married for federal

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<sup>1</sup> R.C. 5747.08(E).

<sup>2</sup> Information Release IT 2013-01, December 19, 2013.

income tax purposes.<sup>3</sup>) In its guidance, the Department of Taxation cited Ohio's constitutional provision (Article XV, Sec. 11) barring state recognition of marriage between persons of the same sex. Following this decision, each spouse of a same-sex married couple that files a joint federal return must file a separate Ohio return and make adjustments to their joint federal adjusted gross income to derive their separate Ohio adjusted gross incomes.

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## HISTORY

ACTION	DATE
Introduced	12-18-13

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<sup>3</sup> "Treasury and IRS Announce that All Legal Same-sex Marriages Will be Recognized for Federal Tax Purposes; Rule Provides Certainty, Benefits and Protections Under Federal Tax Law for Same-sex Married Couples," *Internal Revenue Service*, August 29, 2013, available at: <http://www.irs.gov/uac/Newsroom/Treasury-and-IRS-Announce-That-All-Legal-Same-Sex-Marriages-Will-Be-Recognized-For-Federal-Tax-Purposes%3B-Ruling-Provides-Certainty,-Benefits-and-Protections-Under-Federal-Tax-Law-for-Same-Sex-Married-Couples> (last visited December 1, 2014).

