



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

May 21, 2010

Number: **2010-0168**
Release Date: 9/24/2010

CC:TEGE:EOEG:ET2
CONEX-120584-10

UIL: 3402.02-00

The Honorable David Obey
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Obey:

I am responding to your inquiry of April 8, 2010, on behalf of your constituent, . asked why the withholding on her monthly retirement pay increased.

Withholding tables generally apply to wage payments from employers to employees. Withholding tables also generally determine the withholding on retirement pay. The increase in withholding on 2010 payments occurred as a result of changes made to the withholding tables for the Making Work Pay Credit. The Making Work Pay Credit provides a credit against income tax for a taxable year to an eligible individual in an amount equal to the lesser of 6.2 percent of earned income, or \$400 (\$800 in the case of a joint return).

We issued revised withholding tables in February 2009 that reflected the effect of the Making Work Pay Credit. These tables were effective for wage payments beginning no later than April 1, 2009. We compressed the reduction in withholding equal to the entire amount of the Making Work Pay Credit into the nine remaining months of 2009. However, for 2010 wage withholding, we spread the same dollar amount of reduction over 12 months. Thus, the reduction for the credit is smaller each month of 2010, and the amount withheld from each monthly payment is greater.

The tax regulations generally provide for the same income tax withholding treatment for retirement pay as wages. Therefore, payors of retirement pay must use wage withholding tables even though we do not count retirement income in determining a taxpayer's Making Work Pay Credit. However, retirement plan administrators can make an additional adjustment to withholding which effectively removes the benefit of the Making Work Pay Credit for withholding purposes.

The Department of the Treasury develops the income tax withholding tables to provide the most accurate estimate of tax to be withheld for most employees, considering the many variables that affect taxpayers differently at all income levels. Because the tables

represent a balance between the desire for accuracy in withholding and a product that covers all employees in all situations, the result is not 100 percent accurate for all employees.

Taxpayers who think the amount of taxes withheld from their income does not match their actual tax liability may want to consult the IRS withholding calculator on www.irs.gov and submit revised Forms W-4. I am enclosing Publication 919, *How Do I Adjust my Tax Withholding?*, which provides additional guidance for tax withholding.

I hope this information is helpful. If you need further assistance please contact me or _____ at _____. In addition, information about the Making Work Pay Credit and the changes in withholding is available at www.irs.gov.

Sincerely,

Nancy J. Marks
Division Counsel/Associate Chief Counsel
(Tax Exempt & Government Entities)

Enclosure (1):