

THE ST. BERNARD CODIFIED ORDINANCES

TITLE NINE – CHAPTER 181

THE ST. BERNARD MUNICIPAL INCOME TAX CODE

SECTION 181.01 PURPOSE.

To provide funds for municipal purposes there shall be and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits and other taxable income as hereinafter provided.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

SECTION 181.02 DEFINITIONS.

As used in this Chapter, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

1. "Adjusted federal taxable income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute adjusted federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.
2. "Association" means a partnership, limited partnership, S corporation or any other form of unincorporated enterprise, owned by one or more persons.
3. "Board of Review" means the Board created by and constituted as provided in Section 181.13 hereof.
4. "Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.
5. "Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency.
6. "Domicile" means a principal residence that the taxpayer intends to use for an indefinite time and to which, whenever he is absent, he intends to return. A taxpayer has only one domicile, even though he may have more than one residence.
7. "Employee" means one who works for wages, salary, commission or other types of compensation in the services of an employer.

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8. "Employer" means an individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission or other compensation basis.
9. "Fiscal Year" means an accounting period of twelve (12) months ending on any day other than December 31st.
10. "Form 2106" means Internal Revenue Service Form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
11. "Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes and annual municipal income tax liability or for filing a refund claim that is not prescribed by a particular municipal corporation for the reporting of that municipal corporation's tax on income. Any municipality that requires taxpayers to file income tax returns, reports or other documents shall accept for filing a generic form of such a return, report or document if the generic form, once completed and filed, contains all of the information required to be submitted with the municipality's prescribed returns, reports or documents.
12. "Gross receipts" means total income of taxpayers from whatever source derived.
13. "Income from a pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
14. "Intangible income" means income of any of the following types: income yield, interest, capital gains, dividends or other income arising from the ownership, sale, exchange or other disposition of intangible property including, but not limited to, investments, deposits, money or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings or other similar games of chance.
15. "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.
16. "Internet" means the international computer network of both federal and non-federal interoperable packet switched data networks, including the graphical sub-network known as the World Wide Web.
17. "Joint Economic Development Zone or District" means a zone or district created under Ohio Revised Code sections 715.69 through 715.83 as amended from time to time.
18. "Limited liability Company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.

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19. "Municipality"/"Municipal Corporation" or "City" means City of St. Bernard, Ohio.
20. "Net Profit" for a taxpayer other than an individual means adjusted federal taxable income and "net profit" for a taxpayer who is an individual means the individual's profit, other than amounts described in Division (F) of Section 181.03 hereof, required to be reported on Schedule C, Schedule E or Schedule F.
21. "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v) (2) (C) of the Internal Revenue Code.
22. "Nonresident" means an individual domiciled outside the Municipality.
23. "Nonresident incorporated business entity" means an incorporated business entity not having an office or place of business within the Municipality.
24. "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the Municipality.
25. "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual.
26. "Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
27. "Owner's proportionate share", with respect to each owner of a pass-through entity, means the ratio of (a) the owner's income from the pass-through entity that is subject to taxation by the municipal corporation, to (b) the total income from that entity of all owners whose income from the entity is subject to taxation by that municipal corporation.
28. "Pass-through entity" means a partnership, limited liability company, S corporation, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
29. "Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities and any other entity. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any association includes the partners or members thereof, and as applied to corporations, the officers thereof, and in the case of any unincorporated entity or corporation not having any partner, member or officer within the City, any employee or agent of such unincorporated entity or corporation who can be found within the corporate limits of the City.
30. "Place of business" means any bona fide office, other than a mere statutory office, factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity, individually or through one or more of his regular employees regularly in attendance.

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31. "Principal place of business" means in the case of an employer having headquarters' activities at a place of business within a taxing municipality, the place of business at which the headquarters is situated. In the case of any employer not having its headquarters' activities at a place of business within a taxing municipality, the term means the largest place of business located in a taxing municipality.
32. "Qualified plan" means a retirement plan satisfying the requirements under Section 401 of the Internal Revenue Code as amended.
33. "Qualifying wages" means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) (2) of the Ohio Revised Code.
34. "Resident" means an individual domiciled in the Municipality. Continuous residence within the City for ninety (90) days or more shall prima facie constitute domiciliary residence.
35. "Resident incorporated business entity" means an incorporated business entity whose office, place of operations or business situs is within the Municipality.
36. "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Municipality.
37. "Return preparer" means any person other than a taxpayer that is authorized by a taxpayer to complete or file an income tax return, report or other document for or on behalf of the taxpayer.
38. "Rules and Regulations" means the Rules and Regulations as set forth in this Chapter.
39. "Schedule C" means Internal Revenue Service Schedule C filed by a taxpayer pursuant to the Internal Revenue Code.
40. "Schedule E" means Internal Revenue Service Schedule E filed by a taxpayer pursuant to the Internal Revenue Code.
41. "Schedule F" means Internal Revenue Service Schedule F filed by a taxpayer pursuant to the Internal Revenue Code.
42. "S corporation" means a corporation that has made an election under Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
43. "Tax Commissioner" means the person appointed to administer St. Bernard's Income Tax Ordinance, and to direct the operation of the St. Bernard Income Tax Department, or the person executing the duties of the Tax Commissioner of the City of St. Bernard, Ohio so designated and appointed by the Mayor.
44. "Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of this Chapter.

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45. "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
46. Taxing municipality" means a municipality levying a tax on income earned by nonresidents working within such municipality or on income earned by its residents.
47. Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying Subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying Subchapter S subsidiary.

The singular shall include the plural and the masculine shall include the feminine and the neuter, and all periods set forth shall be inclusive of the first and last mentioned dates.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

(Amended by Ordinance No. 68, 2008, effective December 18, 2008)

181.03 IMPOSITION OF TAX.

- A. Basis of Imposition. Subject to provisions of Section 181.16 hereof, an annual tax, shall be, and is hereby levied on and after July 1, 1985, at the rate of two per cent (2%) per annum and is amended to increase the rate of tax on income to two and one tenth of a percent (2.1%) per annum set effective July 1, 2005, upon the following:
1. On all qualifying wages, including sick and vacation pay, other compensation, commissions, and other taxable income earned or received by residents of the Municipality.
 2. On all qualifying wages, including sick, vacation and severance pay, other compensation, commissions, and any pay as part of an employee buyout or wage contribution plan or other taxable income earned or received by non-residents for work done or services performed or rendered, in the Municipality.
 3. A. On the portion attributable to the Municipality of the net profits earned by all resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered, and business or other activities conducted in the Municipality.
B. On the portion of the distributive share of the net profits earned by a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity by the municipality or any other municipality at the same or a higher rate.

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4. A. On the portion attributable to the Municipality on the net profits by all nonresident unincorporated businesses, pass-through entities, professions or other activities, derived from sales made, work done or services performed or rendered, and business or other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality.
B. On the portion of the distributive share of the net profits earned by a resident owner of a nonresident unincorporated business entity or pass-through entity not attributable to the Municipality and not levied against such unincorporated business entity or pass-through entity by the municipality or any other municipality at the same or higher rate.
 5. On the portion attributable to the Municipality of the net profits earned by all corporations that are not pass-through entities from sales made, work done or services performed or rendered and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality.
 6. On all income received as gambling winnings as reported on IRS form W-2G, Form 5754 and or any other Form required by the Internal Revenue Service that reports winnings from gambling, prizes, and lottery winnings.
 7. The rental of real estate is ordinarily a business activity, and the income from such rentals are taxable, provided, however, where the taxpayer's entire rental activity produces gross rentals less than three hundred (\$300.00) dollars per month, it will be prima facie evidence that such rental activities are not a business activity. (If gross rentals exceed three hundred (\$300.00) dollars per month, the entire net income from rentals is taxable.) In determining the amount of gross monthly rental of any real property, periods during which, by reason of vacancy or any other cause, rentals are not received shall not be taken into consideration by the taxpayer.
- B. Business Both In and Outside the Municipality. This Section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745, of the Ohio Revised Code. Except as otherwise provided in Division (D) of this Section, net profit from a business or profession conducted both within and without the boundaries of a municipal corporation shall be considered as having a taxable situs in such municipal corporation for purposes of municipal income taxation in the same proportion as the average ratio of the following:
1. Multiply the entire net profits of the business by a business apportionment percentage to be determined by:
 - (a) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in such municipal corporation during the taxable period, to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

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As used in the preceding paragraph, real property shall include property rented or leased by the taxpayer, and the value of such property shall be determined by multiplying the annual rental thereon by eight.

- (b) Salaries, wages and other compensation paid during the taxable period to persons employed in the business or profession for services performed in such municipal corporation to salaries, wages and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the municipal corporation under Section 718.011 of the Ohio Revised Code.
 - (c) Gross receipts of the business or profession from sales made and services performed during the taxable period in such municipal corporation to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
 - (d) Adding together the percentages determined in accordance with Subsections B. 1. a., b. and c. hereof, or such of the aforesaid percentages as are applicable to the particular taxpayer, and dividing the total so obtained by the number of percentages used in deriving such total.
 - 1. A factor is applicable even though it may be apportioned entirely in or outside the Municipality.
 - 2. Provided, however, that in the event a just and equitable result cannot be obtained under the formula provided for herein, the Tax Commissioner, upon application of the taxpayer, shall have the authority to substitute other factors or methods calculated to effect a fair and proper apportionment.
- C. As used in Division (B) of this Section, "Sales Made In a Municipal Corporation" mean:
- 1. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes if shipped or delivered from a stock of goods within such municipal corporation;
 - 2. All sales of tangible personal property delivered within such municipal corporation regardless of where title passes even though transported from a point outside such municipal corporation, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion;
 - 3. All sales of tangible personal property shipped from a place within such municipal corporation to purchasers outside such municipal corporation regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- D. Except as otherwise provided in Division (E) of this Section, net profit from rental activity not constituting a business or profession shall be subject to tax only by reason of their

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location within the municipal corporation where the property generating the net profit is located.

E. This Section does not apply to individuals who are residents of the Municipality and, except as otherwise provided in Section 718.01 of the Ohio Revised Code, the Municipality may impose a tax on all income earned by residents of the Municipality to the extent allowed by the United States Constitution.

F. Net Operating Loss (NOL).

1. The portion of a net operating loss sustained in any taxable year, apportioned to the Municipality, may be applied against the portion of the profit of succeeding tax years, apportioned to the Municipality, until exhausted, but in no event for more than five (5) taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.
2. The portion of a net operating loss sustained shall be apportioned to the Municipality in the same manner as provided herein for apportioning net profits to the City of St. Bernard.
3. The Tax Commissioner shall provide by Rules and Regulations the manner in which such net operating loss carry forward shall be determined.
4. The net operating loss of a taxpayer that loses its legal identity, by any means such as merger or consolidation, shall not be allowed as a carry forward loss deduction to the surviving or new taxpayer.
5. The net operating loss sustained by a business or profession is not deductible from employee earnings, but may be carried forward as provided in Subsection 181.03(F) hereof. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss reportable for municipal income tax purposes to another municipality) may be used to offset the profits of another for purposes of arriving at overall net profits.

G. Consolidated Returns.

1. A consolidated return may be filed by a group of corporations who are affiliated through stock ownership if that affiliated group filed for the same tax period a consolidated return for Federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. A consolidated return must include all companies that are so affiliated.
2. Once a consolidated return has been filed for any taxable year, consolidated returns shall continue to be filed in subsequent years unless the applicable requirements of the Rules and Regulations for discontinuing the filing of consolidated returns have been met.

H. Exclusions.

The provisions of this Chapter shall not be construed as levying a tax upon the following:

1. Proceeds from welfare benefits, unemployment insurance benefits, social security benefits and qualified retirement plans as defined by the Internal Revenue Service.
2. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.
3. Compensation attributable to a plan or program described in Section 125 of the Internal Revenue Code.
4. Dues, contributions and similar payments received by charitable, religious, educational organizations, or labor unions, trade or professional associations, lodges and similar organizations.
5. Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations and income of a decedent's estate during the period of administration (except such income from the operation of a business).
6. Alimony.
7. Compensation for damage to property by way of insurance or otherwise.
8. Interest and dividends from intangible property.
9. Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the Ohio National Guard (ORC 718.01).
10. Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property or tax-exempt activities.
11. Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.
12. In the event any association or organization receives taxable income as provided in the preceding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the Municipality, it shall calculate its income apportioned to the Municipality under the method or methods provided above.
13. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from Municipality income tax.

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14. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to Section 107 of the Internal Revenue Code.
15. Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct official, to the extent that such compensation does not exceed one thousand dollars (\$1,000) annually. Such compensation in excess of one thousand dollars may be subjected to taxation. The payer of such compensation is not required to withhold Municipality tax from that compensation.
16. Compensation paid to an employee of a transit authority, regional transit authority or a regional transit commission created under Chapter 306 of the Ohio Revised Code for operating a transit bus or other motor vehicle for the authority or commission in or through the Municipality, unless the bus or vehicle is operated on a regularly scheduled route, the operator is subject to such tax by reason of residence or domicile in the Municipality, or the headquarters of the authority or commission is located within the Municipality.
17. The Municipality shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the Municipality on twelve (12) or fewer days in a calendar year unless one of the following applies:
 - a. The individual is an employee of another person, the principal place of business of the individual's employer is located in another municipality in Ohio that imposes a tax applying to compensation paid to the individual for services paid on those days; and the individual is not liable to that other municipality for tax on the compensation paid for such services.
 - b. The individual is a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such promoter, all as may be reasonably defined by the Municipality.
18. The income of a public utility, when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code, except the City of St. Bernard may tax the following, subject to Chapter 5745 of the Ohio Revised Code:
 - a. The income of an electric company or combined company;
 - b. The income of a telephone company.

As used in Division (F) (17) of this Section, "combined company", "electric company", and "Telephone Company" have the same meanings as in Section 5727.01 of the Ohio Revised Code.
19. An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Code, to the extent

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such distributive share would not be allocated or apportioned to this state under division (B)(1) and (2) of Section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

20. An S corporation shareholder's distributive share of net profits or losses of the S corporation.
21. Generally the above noted items in this Section are the only forms of income not subject to the tax. Any other income, benefits or other forms of compensation shall be taxable.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

(Amended by Ordinance No. 2, 2005, effective January 6, 2007)

(Amended by Ordinance No. 68, 2008, effective December 18, 2008)

181.04 EFFECTIVE PERIOD.

The tax imposed by this Chapter shall be levied, collected and paid with respect to all income and net profits, subject to the tax, earned during the period beginning January 1, 2005. All prior years shall be subject to the tax imposed on all income and net profits by the regulations then in effect. All penalties and enforcement regulations shall also remain in effect for prior years.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

181.05 RETURN AND PAYMENT OF TAX.

- A.
 1. Effective January 1, 2009, for the 2008 filing year, then, on or before April 15th of each year thereafter, every person or taxpayer who engages in business or other activity in the Municipality, or whose taxable income is subject to the provisions of section 181.03 of this Municipal Income Tax Code shall, except as provided in this Chapter, make and file with the Tax Commissioner a Municipal tax return on a form prescribed by and acceptable to the Tax Commissioner, whether or not a tax is due.
 2. Effective April 15, 2005 for the 2004 filing year, then, on or before April 15th of each year thereafter, every resident subject to the provisions of section 181.03, of this Municipal Income Tax Code shall, except as provided in this Chapter, make and file with the Tax Commissioner a Municipal tax return on a form prescribed by and acceptable to the Tax Commissioner, whether or not a tax is due.

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- B. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed on or before the Fifteenth (15th) day of the fourth (4th) month following the end of such fiscal year or period.
- C. The Tax Commissioner is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of Municipal tax deducted by said employer or employers from the qualifying wages, commissions, other compensation, and other taxable income of a nonresident employee, and paid by him or them to the Tax Commissioner may be accepted as the return required of a nonresident employee whose sole income, subject to tax under this Tax Code, is such, qualifying wages, commissions, other compensation, and other taxable income.
- D. How Filed A husband and wife may file either separate returns or a joint return for municipal purposes, even though one of the spouses has neither taxable income nor deductions included on the municipal return, regardless of whether their federal and state returns were filed separately or jointly. If a joint city return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several.
- E. Tax Returns – Form and Content The return shall be filed with the Tax Commissioner on a form or forms furnished by or obtainable upon request from the Tax Commissioner, or on a generic form, if the generic form, when completed and filed, contains all of the information required to be submitted with the Municipality's prescribed return, and, if the taxpayer or return preparer filing the generic form otherwise complies with the Tax Code governing the filing of returns.
- F. The return shall set forth:
1. The aggregate amounts of qualifying wages, commissions, other compensation received, allocated, apportioned or set aside, other income defined by statute as taxable and gross income from any business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income, earned during the preceding year and subject to said tax; and
 2. The amount of the tax imposed by this Tax Code on such earnings and profits; and
 3. Such other pertinent statements, information returns, copies of federal or state tax returns and/or schedules, or other information as the Tax Commissioner may require, including a statement that the figures used in the return are the figures used for federal income tax adjusted to set forth only such income as is taxable under the provisions of this Chapter.
- G. Extensions.
1. Any taxpayer that has requested an extension for filing a federal income tax return may request an extension for the filing of a municipal income tax return by filing a copy of the taxpayer's federal extension request with the St. Bernard Tax Department. Any

taxpayer not required to file a federal income tax return may request an extension for filing a St. Bernard Income Tax Return in writing. The request for extension must be filed on or before the original due date for the annual return. If the request is granted, the extended due date of the municipal income tax return shall be the last day of the month following the month to which the due date of the federal income tax return has been extended.

2. The Tax Commissioner may deny a taxpayer's request for extension if the taxpayer:
 - (a) fails to timely file the request; or
 - (b) fails to file a copy of the federal extension request (if applicable); or
 - (c) owes the Municipality any delinquent income tax or any penalty, interest or other charge for the late payment or non-payment of income tax; or
 - (d) has failed to file any required income tax return, report or other related document for a prior tax period.
3. The granting of an extension for filing a municipal income tax return does not extend the due date as provided in this Section for payment of the tax; hence penalty and interest may apply to any unpaid tax during the period of extension at the rate set out by Section 181.10 hereof . No penalty shall be assessed in those cases in which the return is filed and the final tax paid within the extension period, provided all other filing and payment requirements of the Tax Code have been met. Any extension by the Tax Commissioner shall be granted upon the condition that declaration filing and payment requirements have been fulfilled; however, if, upon further examination it then becomes evident that declaration filing and payment requirements have not been fulfilled, penalty and interest may be assessed in full and in the same manner as though no extension had been granted.

H. Payment With Returns.

1. The taxpayer making a return shall, at the time of the filing thereof, pay to the Tax Commissioner the amount of taxes shown as due. However, credit shall be allowed for:
 - a. Any portion of the tax so due shall have been deducted at the source, pursuant to the provisions of Section 181.06 hereof; and
 - b. Any portion of said tax which shall have been paid by the taxpayer, pursuant to the provisions of Section 181.07 hereof; and
 - c. Credit to the extent allowed by Section 181.15 hereof, for tax paid to another municipality.
2. Subject to the limitations contained in Section 181.05 hereof, of this Tax Code, any taxpayer who has overpaid the amount of tax to which the Municipality is entitled under the provisions of this Tax Code, may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such

overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than five dollars (\$5.00) shall be collected or refunded.

I. Amended Returns

1. Where necessary, an amended return shall be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 181.11 and 181.15 hereof. The Tax Commissioner shall provide by regulation the format in which such amended return shall be filed. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.
 2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's St. Bernard tax liability, such taxpayer shall make and file an amended St. Bernard return showing income subject to the Municipality tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.
- J. Information returns, schedules and statements required to support tax returns which are incomplete without such information shall be filed within the time limits set forth for the filing of the tax returns and the failure to file such information returns, schedules and statements shall be a violation of this Tax Code. Provided, however, that the taxpayer shall have ten (10) days after notification by the Tax Commissioner, or his authorized representative, to file the items required by this paragraph.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

(Amended by Ordinance No. 68, 2008, effective December 18, 2008)

181.06 COLLECTION AT SOURCE.

- A. Withholding by Employer Each employer within, or doing business within the Municipality who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, when such salary, wage, commission or other compensation is paid, allocated, apportioned or set aside, the tax at the rate provided in Section 181.03 hereof on those qualifying wages, due by such employer to such employee and shall, on or before the fifteenth (15th) day of the month following such withholding, make a return and pay to the Tax Commissioner the amount of taxes so deducted. The return shall be on a form or forms prescribed by or acceptable to the Tax Commissioner and shall be subject to the Rules and Regulations prescribed by the Tax Commissioner. Effective January 1, 2006, employers shall make the payment of withheld taxes to the Tax Commissioner by electronic funds transfer. The Tax Commissioner shall adopt rules governing the payment of withheld taxes by electronic funds transfer as required by this Ordinance. The rules shall govern the modes of electronic funds transfer and under what circumstances each mode is acceptable, the content and format of electronic funds transfer, the coordination of payment by electronic

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funds transfer and filing of associated tax reports and returns, and any other matter that facilitates payment by electronic funds transfer. Upon written request of a taxpayer, the Tax Commissioner may implement means of acknowledging receipt of payments made by electronic funds transfer and may adopt rules governing acknowledgments. The taxpayer requesting acknowledgment shall pay the cost of acknowledging receipt of electronic remittances. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Nothing in this Section prohibits an employer from withholding tax on a basis greater than qualifying wages.

- B. An employer is not required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.
- C.
 - 1. An employee is not relieved from liability for a tax by the failure of the employer to withhold the tax as required by a municipal corporation or by the employer's exemption from the requirement to withhold the tax.
 - 2. The failure of an employer to remit to the municipal corporation the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.
- D. So long as the taxes withheld by an employer for the Municipality during the measurement period are less than two hundred dollars (\$200.00) per month, payments shall be made quarterly on or before the day of the month following the end of each quarter, subject to the approval of the Tax Commissioner. The Tax Commissioner may grant an exemption to an employer from the duty to make payment of withheld taxes by electronic funds transfer upon application for such exemption by the employer and the employer's demonstration to the Tax Commissioner that the requirement to make payment of withheld taxes by electronic funds transfer will impose a hardship upon the employer. The Tax Commissioner may revoke either approval granted in this section whenever the Tax Commissioner has reason to believe that the conditions for granting such authorization have changed, were judged incorrectly, were not met, or when it is in the best interest of the Municipality to do so. Notice of withdrawal shall be made in writing and, in such case; the employer must begin to file in accordance with this Section.
- E. Frequency of Payments Where taxes withheld equal or exceed two hundred dollars (\$200.00) per month, payments will be made monthly by the 15th day of the month following the end of each month. All other employers will remit quarterly the amounts withheld.
- F. Employer Considered as Trustee Each employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to the Municipality, as a trustee for the benefit of the Municipality and any such tax collected by such employer from his employees shall, until the same is paid to the Municipality, be deemed a trust fund in the

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hands of such employer. Each employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such tax, in fact, has been withheld.

- G. Any person who is required to withhold tax from salaries and wages shall pay all such tax to the Municipality in accordance with the provisions of this Section. In the event taxes withheld from employees are not paid to the Municipality in accordance with the provisions of this Section, all officers, members, managers, employees and trustees having control or supervision of, or charged with the responsibility of filing the return and making payment, are jointly and severally personally liable for the tax not returned or paid to the Municipality, as well as any related interest and penalties, and are also liable under the provisions of Section 181.12 hereof. The dissolution, termination or bankruptcy of a corporation, limited liability company or business trust does not discharge an officer's, member's, manager's, employee's or trustee's liability for a failure of the corporation, limited liability company or business trust to file returns or pay said taxes.
- H. **Withholding Return; List of Employees** Each employer shall file a withholding tax reconciliation showing the sum total of all compensation paid all employees, the portion of which, (if any) was not subject to withholding along with an explanation for same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted. Such return shall include information concerning each employee from whom the municipal tax was withheld, showing the name, address, zip code and social security number of each such employee, the total amount of compensation paid during the year, and the amount of municipal tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipality, the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. The withholding tax reconciliation shall be filed by each employer on or before February 28th following the end of such calendar year.
- I. In addition to the wage reporting requirements of this Section, any person required by the Internal Revenue Service to report on Form 1099-Misc. payments to individuals not treated as employees for services performed, shall also report such payments to the Municipality when the services were performed in the Municipality. The information may be submitted on a listing, and shall include the name, address and social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before February 28th following the end of such calendar year.
- J. **Domestic Servants** No person shall be required to withhold the tax on the qualifying wages, commissions, other compensation, and other taxable income paid domestic servants employed exclusively in or about such person's residence. However, such domestic servants shall be responsible for filing and paying their own returns and taxes.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

(Amended by Ordinance No. 46, 2005, effective December 15, 2005)

181.07 DECLARATIONS.

- A. Requirement for Filing. Every person who anticipates any taxable income which is not subject to Section 181.06 hereof, or who engages in any business, profession, enterprise or activity resulting in income subject to the tax imposed by Section 181.03(A) (4 & 5) hereof, shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity, together with the estimated tax due thereon, if any. Provided, however, if a person's income is wholly from qualifying wages from which the tax will be withheld and remitted to this Municipality in accordance with Sections 181.06, 181.03(a)(4&5) hereof, such person need not file a declaration.
- B. Dates for Filing.
1. Such declaration shall be filed on or before April 15th of each year during the life of this Chapter, or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time.
 2. Those taxpayers having a fiscal year or period differing from the calendar year shall file a declaration on or before the fifteenth (15th) day of the fourth (4th) month following the start of each fiscal year or period.
- C. Forms -- Credit for Tax Withheld or Paid Another Community.
1. Such declaration shall be filed upon a form furnished by or obtainable from the Tax Commissioner, or on an acceptable generic form, and credit shall be taken for the municipal tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.07(C) and 181.15 hereof, a credit may be taken for tax to be withheld and remitted to another taxing municipality.
 2. The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
 3. For taxpayers who are individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax, and at least a similar amount shall be paid on or before the last day of the seventh (7th), tenth (10th) and thirteenth (13th) months after the beginning of the taxable year.
 4. For taxpayers that are not individuals, such declaration of estimated tax to be paid the Municipality shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of the estimated annual tax, and at least a similar amount shall be paid on or before the fifteenth (15th) day of the sixth (6th), ninth (9th) and twelfth (12th) months after the beginning of the taxable year.
 5. The mere submission of a declaration estimating a tax liability shall not constitute filing unless accompanied by the required payment.

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6. On or before the fifteenth (15th) day of the fourth (4th) month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the municipality shall be paid therewith in accordance with the provisions of Section 181.05 hereof.
7. An entity (individual, corporate or association) may pay 100% of the prior year's tax in four equal installments in the current year and avoid any underpayment of estimated tax penalty.

D. Amended Declaration.

1. A declaration may be amended at any time.
2. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

E. Annual Return Required. On or before the fifteenth (15th) day of the fourth month of the calendar or fiscal year, an annual return shall be filed and any balance which may be due the Municipality shall be paid therewith in accordance with the provisions of Section 181.05 hereof.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

181.08 APPOINTMENT AND DUTIES OF TAX COMMISSIONER.

- A.
 1. It shall be the duty of the Tax Commissioner to collect and receive the tax imposed by this Chapter in the manner prescribed herein, and to keep an accurate record thereof, and to report all monies so received.
 2. It shall be the duty of the Tax Commissioner to enforce payment of all income taxes owing the Municipality, to keep accurate records for a minimum of six (6) years, showing the amount due from each taxpayer required to file a declaration or make any return, including a return of taxes withheld, and to show the dates and amounts of payments thereof.
- B. The Tax Commissioner is hereby charged with the enforcement of the provisions of this Chapter, including the interpretation and enforcement of the Rules and Regulations set forth in Sections 181.21 through 181.30 hereof, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes, and the administration and enforcement of the provisions of this Chapter, including provisions for the re-examination and correction of returns.
- C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Commissioner may determine the amount of tax appearing to be due the Municipality from the taxpayer, and may send to such taxpayer a

written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

- D. Subject to the consent of a majority of the Board of Review, the Tax Commissioner shall have the power to compromise any liability imposed by this Tax Code.
- E. Upon the demonstration and documentation of good cause, the Tax Commissioner shall have the power to compromise penalty and interest liabilities imposed by this Chapter, consistent with this Chapter and the Rules and Regulations.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

181.09 INVESTIGATIVE POWERS OF THE TAX COMMISSIONER; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

- A. The Tax Commissioner, or any of his authorized agents, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer, taxpayer, or any person subject to, or whom the Tax Commissioner believes is subject to, the provisions of this Chapter, for the purpose of verifying the accuracy of any return made or, if no return was made, to ascertain the tax or withholdings due under this Chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish, upon written request of the Tax Commissioner, or his duly authorized agent or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.
- B. The Tax Commissioner is hereby authorized to order any person presumed to have knowledge of the facts, to appear at the office of the Tax Commissioner and to examine such person, under oath, concerning any income which was or should have been reported for taxation, or withheld, or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns, and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.
- C. The refusal to produce books, papers, records or federal income tax returns, or the refusal to submit to such examination by any employer or person subject, or presumed to be subject, to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax, or the failure of any person to comply with the provisions of this Section, or with an order or subpoena of the Tax Commissioner authorized hereby, shall be deemed a violation of this Chapter, punishable as provided in Section 181.12 hereof.
- D. Every taxpayer shall retain all records necessary to compute his tax liability for a period of six (6) years from the date his return is filed or the taxes required to be withheld are paid.
- E. Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter shall be confidential, and no person shall disclose such information except in accordance with a proper judicial order, or in connection with

the performance of that person's official duties or the official business of the municipal corporation as authorized by this Chapter. The Tax Commissioner of the municipal corporation may furnish copies of returns filed under this Chapter to the Internal Revenue Service and to the State Tax Commissioner.

- F. Any person divulging such information shall be guilty of a misdemeanor punishable by a maximum fine of five hundred dollars (\$500.00) or imprisonment for not more than six (6) months, or both.
- G. In addition to the above penalty, any employee of the Municipality who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

181.10 INTEREST AND PENALTIES.

- A. All taxes imposed and monies withheld or required to be withheld by employers under the provisions of this Tax Code and remaining unpaid five (5) days after they become due shall bear interest at the rate of one (1%) per month.
- B. In addition to interest as provided in Paragraph A hereof, penalties are hereby imposed as follows based on the tax remaining unpaid after it becomes due:
 - 1. For failure to pay taxes due, other than taxes withheld, one and one-half percent (1½%) per month or fraction thereof, or fifty dollars (\$50.00), whichever is greater. Except in the case of fraud, the penalty for failure to pay taxes due shall not exceed fifty percent (50%) of the unpaid tax.
 - 2. For failure to remit taxes withheld or required to be withheld from employees, three percent (3%) per month or fraction thereof, or fifty dollars (\$50.00), whichever is greater. Except in the case of fraud, the penalty for failure to remit taxes withheld or required to be withheld shall not exceed fifty percent (50%) of the unpaid tax.
 - 3. Where the taxpayer has failed to file a return by the due date or by the date resulting from extension, fifty dollars (\$50.00).
 - 4. Where the taxpayer has failed to file a declaration on which he has estimated and paid a tax equal to or greater than the tax paid for the previous year, or where he has filed a previous return and has failed to file a declaration on which he has estimated and paid a tax equal to or greater than ninety percent (90%) of the actual tax for the year, or has failed to file a return and paid the total tax on or before the end of the month following the end of the taxable year; ten percent (10%) of the difference between ninety percent (90%) of the actual tax for the year and the amount paid through withholding and declaration.

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5. No penalty or interest shall be charged against a taxpayer for the late payment or nonpayment of estimated tax liability if the taxpayer is an individual who resides in the municipal corporation but was not domiciled there on the first day of January of the current calendar year.

The percentages herein specified when used shall apply from the first month of delinquency.

- C. Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Tax Commissioner when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Tax Commissioner; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after the final determination of the federal tax liability.
- D. Computed penalties of less than five dollars (\$5.00) for a first violation shall not be assessed. However, notification to the taxpayer of a first time violation will be made.
- E. Upon recommendation of the Tax Commissioner, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Tax Commissioner to recommend abatement of penalty and interest concerning an item of income or expense, the Board may nevertheless abate penalty or interest, or both.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

(Amended by Ordinance No. 68, 2008, effective December 18, 2008)

181.11 COLLECTION OF UNPAID TAXES & REFUNDS OF OVERPAYMENTS.

- A. All taxes imposed by this Chapter shall be collectible, together with any interest and penalties thereon, by suit as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five per cent (25%) of that required to be reported, or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Tax Commissioner shall be extended one (1) year from the time of the final determination of the federal tax liability.
- B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

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- C. Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by O. R. C. 5703.47.
- D. Amounts of less than five dollars (\$5.00) shall not be collected or refunded.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

181.12 VIOLATIONS AND PENALTIES.

- A. Any person who shall:
1. Fail, neglect or refuse to make any return or declaration required by this Chapter; or
 2. Knowingly make an incomplete, false or fraudulent return; or
 3. Willfully fail, neglect or refuse to pay the tax, penalties or interest imposed by this Chapter; or
 4. Fail, neglect or refuse to withhold the tax from his employees and remit such withholding tax to the Tax Commissioner; or
 5. Refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine their employer's books, records, papers and federal income tax returns; or
 6. Fail to appear before the Tax Commissioner and to produce their employer's books, records, papers, W-2's or federal income tax returns upon order or subpoena of the Tax Commissioner; or
 7. Refuse to disclose to the Tax Commissioner any information with respect to such person's or such person's employer's income or net profits; or
 8. Willfully give to an employer by an employee false information as to his true name, correct social security number and residence address, or the failure of such employee to promptly notify an employer of any change in residence address and date thereof; or
 9. Failure on the part of any employer to maintain proper records of employees' residence addresses, total wages paid and municipal tax withheld, or to knowingly give the Tax Commissioner false information; or
 10. Fail to comply with the provisions of this Chapter or any order or subpoena of the Tax Commissioner; or

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11. Willfully fail or willfully refuse to make any payment on the estimated tax for any year or part of any tax year as required by Section 181.07 hereof; or
12. Fail as an officer, member, manager, employee or trustee to cause the tax withheld from the qualifying wages of the employees pursuant to this Chapter to be paid to the Municipality in accordance with the provisions of Section 181.06 hereof; or
13. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter;

for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor on a first offense and shall be fined within the limitations as set forth in section 501.99 (PENALTIES FOR MISDEMEANORS) of the City of St. Bernard Codified Ordinances; on a second offense within two years after the first offense, such person is guilty of a misdemeanor of the third degree and shall be fined and/or imprisoned within the limitations set forth in section 501.99 (PENALTIES FOR MISDEMEANORS) of the City of St. Bernard Codified Ordinances, for each offense; on each subsequent tax code violation within two years after the first offense such person is guilty of a misdemeanor of the third degree, and shall be fined and/or imprisoned within the limitations set forth in section 501.99 (PENALTIES FOR MISDEMEANORS) of the City of St. Bernard Codified Ordinances, for each offense.

- B. All prosecutions under this Section must be commenced within the time specified in O.R.C. 718.12.
- C. The failure of any employer or taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.
- D. Statute of Limitations.
 1. Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.
 2. Prosecutions for an offense made punishable under this Chapter, shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense. (ORC 718.12).
- E. The failure of any employer, taxpayer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form or from paying the tax.
- F. The term "person" as used in this Section shall, in addition to the meaning prescribed in Section 181.02(29) hereof, include in the case of an association or corporation not having

any partner, member or officer within the Municipality, any employee or agent of such association or corporation who can be found within the corporate limits of the Municipality.

- G. An authority who issues a license or permit may deny issuance of an original license or permit, prohibit subsequent assignment of a license or revoke an existing license or permit for failure to comply with the provisions of this chapter.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

(Amended by Ordinance No. 68, 2008, effective December 18, 2008)

181.13 BOARD OF REVIEW.

- A. There shall be a Board of Review which shall consist of three (3) members, each of whom shall be appointed by the Mayor and approved by Council. Members of the Board of Review shall be appointed for terms of three (3) years, so arranged that one member's term shall expire on July 1 of each year. Any vacancy which shall occur in a regular term shall be filled for the unexpired portion of such term. Board members shall receive such compensation as Council may determine. Existing members of the Board of Review shall serve without the necessity of reappointment until July 1, at which time the Mayor shall appoint, with Council's approval, members and establish terms consistent with this section.
- B. The Board of Review ("Board") shall consist of members that have the education and experience that provide them with a competent understanding of the nature and application of the St. Bernard municipal income tax law. While not a mandatory requirement for being appointed a member, there shall be a preference for those members with substantial work experience in the areas of: (i) banking and finance, (ii) accounting, (iii) tax, or (iv) law. It is also preferred, but again not required, that the Board members hold a post-high school graduate degree in the areas of business, finance, accounting, tax, or law. The members shall be St. Bernard residents, or, a nonresident individual, whose primary profession is located within and conducted within the City of St. Bernard. The Board shall not include any member that is a current St. Bernard elected official, officer, director, employee, independent contractor, or agent of the City of St. Bernard.
- C. A majority of the members of the Board shall constitute a quorum. The Board of Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. The Board shall be maintained to conduct and hear appeals. Such records are not public records available for inspection under Section 149.43 of the Ohio Revised Code. Hearings requested by a taxpayer before the Board are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code. Any hearing by the Board shall be conducted privately and the provisions of Section 181.09 hereof, with reference to the confidential character of information required to be disclosed by this Chapter shall apply to such matters as may be heard before the Board on appeal.

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- D. All rules and regulations and amendments or changes thereto which are adopted by the Tax Commissioner, under the authority conferred by this Chapter, must be approved by the Board of Review before the same become effective. After such approval, such rules, regulations, amendments and changes shall be filed with the City Law Director, and shall be open to public inspection. The Board shall hear and pass on appeals from any ruling or decision of the Tax Commissioner, and, at the request of the taxpayer or Tax Commissioner, is empowered to substitute alternate methods of apportionment.
- E. Whenever the Tax Commissioner issues a decision regarding an income tax obligation that is subject to appeal as provided in this section, or in an ordinance or regulation of the Municipality, the Tax Commissioner shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and of the manner in which the taxpayer may appeal the decision.
- F. Any person who is aggrieved by a decision of the Tax Commissioner and who has filed with the Municipality the required returns or other documents pertaining to the municipal income tax obligation at issue in the decision may appeal the decision to the Board of Review by filing a request with the Board. The request shall be in writing, shall state with particularity why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the Tax Commissioner has issued the decision.
- G. The imposition of penalty and interest as prescribed in the Codified Ordinance of the Municipality is not a sole basis for an appeal.
- H. The Board of Review shall schedule a hearing within forty-five (45) days after receiving the request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant or other representative.
- I. The Board may affirm, reverse, or modify the Tax Commissioner's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its final decision by ordinary mail to all of the parties to the appeal within fifteen (15) days after issuing the decision. The taxpayer or the Tax Commissioner may appeal the Board's decision as provided in Section 5717.011 of the Ohio Revised Code.
- J. The Board of Review shall be empowered to recommend to Council for their consideration modifications to, additions to or deletions from this chapter, with or without the concurrence of the Tax Commissioner.

(Ordained by Ordinance No. 37, 2007, effective September 6, 2007)

181.14 INFORMATION BY LANDLORDS.

- A. Within thirty (30) days after a new tenant occupies rental property of any kind within the Municipality, all owners of rental property who rent to tenants of apartments, rooms and other rental accommodations shall file with the Tax Commissioner a report showing the name, address and telephone number, if available, of each such tenant who occupies an apartment, room or other rental property within the Municipality.
- B. Within thirty (30) days after a tenant vacates an apartment, room or other rental property located within the Municipality, the owner of such vacated rental property shall file with the Tax Commissioner a report showing the date of vacation from the rental property and a forwarding address.
- C. Failure to provide information that is require by paragraphs A and B above shall be considered a violation of Section 181.12 (A) 10 hereof.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

181.15 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY OR ECONOMIC DEVELOPMENT DISTRICT OR COUNTY.

- A. Where a resident of the Municipality is subject to a municipal income tax or joint economic development zone or district in another municipality he or she shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.
- B. Every individual taxpayer who resides in the Municipality and who receives qualifying wages, including sick and vacation pay, bonuses, commissions, incentive payments, settlements, stock options, grievance pay, severance pay, any pay as part of an employee buyout or wage continuation plan or other compensation or net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of the Municipality, if it appears that the taxpayer has paid a municipal income tax on the same income taxable under this Chapter to another municipality, shall be allowed a credit against the tax imposed by this Chapter of the amount so paid by the taxpayer to such other municipality. The credit shall not exceed the tax assessed by this Chapter on such income earned in such other municipality or municipalities where such tax is paid. No credit is given for county or school district taxes paid; only other municipal or joint economic development zone or district taxes.
- C. Notwithstanding the provisions contained in section 181.11 of this Chapter, or any other provisions inconsistent with this Chapter, a claim for refund or credit under this section shall be made in such manner as the Tax Commissioner may provide. No such claim for refund or credit shall be allowed unless made on or before the date of filing the taxpayer's final return unless such taxpayer's employer files with the Tax Commissioner a list showing the tax withheld from such taxpayer's wages, salaries or commissions for other municipalities.

- D. The Tax Commissioner shall provide that a resident working in another municipality imposing a tax on earned income shall not be required to file a declaration under Section 181.07 hereof, if the administrator of the income tax of such other municipality advises the Tax Commissioner that a tax rate of that provided in Section 181.03 hereof, or greater is being deducted from the wages of such resident and is being paid to such other municipality and if the wages or other compensation subject to such withholding are said resident's only income taxable under this chapter.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

(Amended by Ordinance No. 68, 2008, effective December 18, 2008)

181.16 SAVING CLAUSE.

This Chapter shall not apply to any person, firm or corporation or to any property as to whom or which, it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section, or part of this Chapter, or any tax against or exception granted any individual or any of the several groups of persons or forms of income specified herein is found to be unconstitutional or illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Chapter. It is hereby declared to be the intention of Council of the Municipality that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence or part thereof, not been included therein.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)

181.17 REPEAL.

The Income Tax Ordinance No. 34, passed July 16, 1970, effective January 1, 1971 and thereafter, together with all amendments thereto and all other Ordinances of the City inconsistent herewith and to the extent of such inconsistency and no further, are hereby repealed.

(Ordained by Ordinance No. 46, 2004, effective December 16, 2004)