

ORDINANCE NO. 10, 2018

AN ORDINANCE REVISING CHAPTER 182 OF THE CODIFIED ORDINANCES OF THE VILLAGE OF ST. BERNARD REGARDING THE COLLECTION AND ADMINISTRATION OF THE NET PROFIT TAXES SECTION OF CHAPTER 182 AND DECLARING AN EMERGENCY.

WHEREAS, the Home Rule Amendment of the Ohio Constitution, Article XVIII, Section 3, provides that “Municipalities shall have the authority to exercise all powers of local self-government,” and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipalities power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that “laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes;” and

WHEREAS, the General Assembly has determined that it is necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal tax codes in Ohio; and

WHEREAS, more specifically the General Assembly enacted H.B. 49 in October, 2017, and mandated that municipal tax codes be amended by January 1, 2018 such that any income or withholding tax is “levied in accordance with the provisions and limitations specified in Chapter 718;” and

WHEREAS, upon a review of H. B. 49 and the Codified Ordinance of the Village of St. Bernard, this Ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2018 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Revised Code; and

WHEREAS, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code is questionable, among which are

- 1) The Village will no longer be able to review returns for accuracy;
- 2) There will be no recourse to question refunds;
- 3) A 1% administrative fee will hurt the village quality of life by reducing income and limit the ability to provide our citizens the services they need for safety and day to day activities;
- 4) Village cash flow will be adversely affected by taking refunds from revenue prior to submission to the village.

These provisions must be included if the municipal income tax code is to be “levied in accordance with the provisions and limitations specified in Chapter 718 and H.B. 49., and thus are reluctantly adopted by this council but are disclaimed to the extent they are unlawful or unconstitutional; now therefore

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ST. BERNARD, STATE OF OHIO,

Section 1. That new H. B. 49 of the Codified Ordinances is enacted as read as set forth in the document entitled “Chapter 182, Income Tax, and incorporated herein by reference.

Section 2. That this ordinance shall take effect and be in force from and after January 1, 2018.

Section 3. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety. The reason for the emergency is the immediate need to have the new rules in place by January 1, 2018 as required under Ohio law. Therefore, this Ordinance shall take effect immediately by and upon its passage, and the approval of two-thirds of the members of said Council. However, this Ordinance shall take effect on the earliest date provided by law if approved by no more than a majority of the members of Council and in the event emergency provisions herein are at naught

ORIGINAL

Ordinance No. 10, 2018
Page 2

St. Adrich
President of Council

ATTEST:

M. Sue Kathman
Clerk of Council

Approved this 1st day of February 2018

John R. Estep
Mayor

I, M. SUE KATHMAN, CLERK OF COUNCIL, VILLAGE OF ST> BERNARD, STATE OF OHIO, DO HEREBY testify that the publication of Ordinance No. 10, 2018 was made by posting true copies of the same in the most public places designated by Council: St. Bernard Square Bus Stop; Vine Street and Washington Avenue; Bertus Street Park; Greenlee Avenue and Johnson Alley; ; each for a period of fifteen (15) days or more commencing 2.1, 2018.

ATTEST: M. Sue Kathman DATE: 2.1.18
Clerk of Council

Approved as to form Michael N. Peak DATE: 2.1.18
Director of Law

The EPA plans to spend over \$1.7 billion on improving surface water quality in 2018. You can read a further breakdown of the numbers [HERE](#).

BREAKING DOWN THE MUNICIPAL INCOME TAX COURT RULING

As we reported in our previous bulletin, right before the new year, the Honorable Judge David Cain of the Franklin County Common Pleas Court issued an Agreed Order on the lawsuit brought by 137 Ohio municipalities regarding the centralized collection of municipal business net profit filings by the Department of Taxation (per HB 49). OML's Legal Counsel Garry Hunter reviewed the Agreed Order and broke down its impact as follows:

- By agreement of the parties, Franklin County Common Pleas Court has stayed the requirement of H.B. 49 that all municipalities adopt a reconciliation income tax ordinance with new state law by January 31, 2018. The new date for compliance is February 24, 2018, unless modified by the court.
- Briefs on the matter of the preliminary injunction are to be submitted by February 9, 2018 and A hearing on the preliminary injunction is scheduled for February 12-13, 2018.
- If a preliminary injunction is issued the stay will remain in effect until a decision on the merit of whether the legislation is constitutional. If the preliminary injunction is denied, municipalities will need to decide whether they are going to comply with the reconciliation requirements of H.B. 49
- The decision is binding on all municipalities which are a party to the litigation. However, those municipalities not a party to the litigation are not guaranteed the state will not try to enforce the reconciliation provisions of H.B. 49 after January 31, 2018.
- The Agreed Order only affects the reconciliation provisions of H.B. 49; all other provisions of H.B. 49 are not affected by the stay.

The litigation is an important part of the fight to defend Home Rule and preserve municipalities' ability to locally control revenues and ensure tax filings are complete and accurate. We will continue to report on the progress of the litigation throughout the court process, or if more information becomes available.

OML GEARS UP FOR 2018

The League is excited to announce the initiation of several new programs we are rolling out in 2018, in addition to the continuation of the programs we successfully launched last year. We are looking forward to the upcoming year as an opportunity to connect with our members, regional leaders, legislators and their staff.