

ORDINANCE NO. 19, 2023

ORDINANCE AMENDING TITLE NINE-CHAPTER 181 OF THE ST BERNARD CODIFIED ORDINANCE, THE ST. BERNARD MUNICIPAL INCOME TAX CODE, AND DELCARING AN EMERGENCY.

WHEREAS, the St. Bernard Village Council, at the recommendation of the Tax Administrator, intends to make certain adjustments, amendments, and clarifications to the St. Bernard Municipal Income Tax code; and

WHEREAS, the St. Bernard Village Council, at the recommendation of the Tax Administrator, intends to make adjustments and amendments to accomplish the following directives:

1. Clarification of "Other Compensation" under definitions of taxable income, §182.03, by adding section §182.03(22)(F).
2. Clarification of "Pension" under section §182.03(41). To amend definitions of what is Pension Income.
3. To follow the State of Ohio Municipal Tax definitions and to be aligned with other Ohio Municipalities.

Now therefore:



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

Section 1. Section 182.03 (F) of the Codified Ordinances of The Village Of St. Bernard shall be amended to read as follows:

§182.03(22)(F)

For both resident and non-resident individuals, "OTHER COMPENSATION" shall mean:

(i) Tips, bonuses, gifts, or prizes of any type connected with employment or in lieu of pay, and including compensation received by domestic servants, casual employees, and other types of employees. These payments are normally reported on a Form 1099 MISC or 1099 NEC.

(ii) If the income appears as part of Medicare wages on a W-2 form and is not shown to be an exception in accordance with Section **182.03(17)**, it shall be considered other compensation and is therefore taxable to the individual. This includes, but is not limited to:

(a) Payments made by an employer to an employee during periods of absence from work are taxable when paid and at the tax rate in effect at the time of payment, regardless of the fact that such payments may be labeled as sick leave or sick pay, sick pay paid by the employer to the employee, severance pay, supplemental unemployment benefits described in Section 3402(o)(2) of the Internal Revenue Code, vacation pay, terminal pay, supplemental unemployment pay, settlements, any pay as part of an employee buyout, wage and salary continuation plans, payments made for the release of liability related to termination of employment.

- (b) Tips, bonuses, fees, gifts in lieu of pay, gratuities.
- (c) Strike pay; grievance pay.
- (d) Employer paid premiums for group term life insurance to the extent taxable for federal income tax purposes.
- (e) Car allowance, personal use of employer-provided vehicle.
- (f) Incentive payments, no matter how described, including, but not limited to, payments to induce early retirement.
- (g) Contributions by an employee or on behalf of an employee, from gross wages, into an employee or third-party trust or pension plan as permitted by any provision of the Internal Revenue Code that may be excludable from gross wages for federal income tax purposes such as 401(k), 403(b) and 457 plans.
- (h) Nonqualified Deferred Compensation Plans or programs described in section 3121(v)(2)(C) of the Internal Revenue Code.
- (i) Insurance Agent Termination Payments and Extended Termination Payments. These payments are normally reported on a Form 1099 MISC.
- (iii) Trust payments not made pursuant to employee's retirement.
- (iv) Where compensation is paid or received in property, its fair market value at the time of receipt shall be subject to the tax and to withholding.
 - a) Board, lodging, or similar items received by an employee in lieu of additional cash compensation shall be included in earnings at their fair market value.
 - (b) Restricted stock awards that vest over a period of time are taxable at their fair market value at the time they become vested and included in Medicare wages, as shown on the employee's IRS Form W-2.
- (v) Fellowships, scholarships, stipends, and grants, to the extent that they are taxable for federal income tax purposes.
- (vi) For an individual, the ordinary gain from the sale of rental real estate property. Any related ordinary loss from the sale of rental real estate property shall be allowed.

Section 2. Section 182.03(41) of the Codified Ordinances of The Village Of St. Bernard shall be amended to read as follows:

§182.03(41)

(A) "PENSION" for tax years beginning January 1, 2016, through December 31, 2019, means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.

(B) "PENSION" for tax years beginning on or after January 1, 2020 means a retirement benefit plan, regardless of whether the plan satisfies the qualifications described under section 401(a) of the Internal Revenue Code, including amounts that are taxable under the "Federal Insurance Contributions Act," Chapter 21 of the Internal Revenue Code, excluding

(B) "PENSION" for tax years beginning on or after January 1, 2020 means a retirement benefit plan, regardless of whether the plan satisfies the qualifications described under section 401(a) of the Internal Revenue Code, including amounts that are taxable under the "Federal Insurance Contributions Act," Chapter 21 of the Internal Revenue Code, excluding employee contributions and elective deferrals, and regardless of whether such amounts are paid in the same taxable year in which the amounts are included in the employee's wages, as defined by section 3121(a) of the Internal Revenue Code.

(C) "RETIREMENT BENEFIT PLAN" for tax years beginning on or after January 1, 2020, means an arrangement whereby an entity provides benefits to individuals either on or after their termination of service because of retirement or disability. "Retirement benefit plan" does not include wage continuation payments, severance payments, or payments made for accrued personal or vacation time.

Section 3. Section §182.03(2)(A) of the Codified Ordinances of The Village of St. Bernard shall be amended to read as follows:

"ASSESSMENT" means any of the following:

- (i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation; fails to file the return within the time prescribed, files an incorrect return or fraudulent return.
- (ii) A full or partial denial of a refund request issued under Section 182.096 (B)(2) of this Chapter;
- (iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 182.062(B)(2) of this Chapter; or
- (iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 182.062(B)(3) of this Chapter.
- (v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 182.18 of this Chapter, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.

Section 4. All previous sections of Chapter 181 inconsistent with these amendments are hereby repealed.

Section 5. The effective date of these amendments to the St. Bernard Codified Ordinance-Title Nine-Chapter 181, the St. Bernard Tax Code, as amended by this ordinance is June 22, 2023.

Section 6. 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 update the Codified Ordinance of the Village of St. Bernard and to be effective June 22, 2023. 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 that event the emergency provisions herein are set at naught.

Passed this 13th day of July, 2023.

President of Council Steve Aslach

ATTEST:

Caroline Stegman
Clerk of Council

Approved this 13 day of July, 2023.

[Signature]
Mayor

I, CAROLINE STEGMAN, CLERK OF COUNCIL, VILLAGE OF ST. BERNARD, STATE OF OHIO, DO HEREBY testify that the publication of Ordinance No. 19, 2023, was made by posting true copies of the same in the most public places designated by Council: City Hall, Vine St and Washington Avenue; for a period of fifteen (15) days or more commencing July 13th, 2023.

ATTEST: Caroline Stegman DATE July 13th 2023
Clerk of Council

Approved as to form [Signature] Date 13 July 2023
Director of Law

 ORIGINAL