

## 3.54 – Local Fuel Tax

### Sections

- 3.54.010 – Title
- 3.54.020 – Definitions
- 3.54.030 – Imposition of tax
- 3.54.040 – Liability for payment
- 3.54.050 – Collection
- 3.54.060 – Notices
- 3.54.070 – Rules and regulations
- 3.54.080 – Filing of return; payment of tax
- 3.54.090 – Late payment and/or filing; failure to pay and/or file
- 3.54.100 – Interest
- 3.54.110 – Records
- 3.54.120 – Suspension or revocation of licenses for failure to pay tax; hearing
- 3.54.140 – Disposition of proceeds
- 3.54.150 – Preparation; service of citations

### 3.54.010 – Title

This chapter shall be known and cited as the " St. Charles Local Fuel Tax Ordinance". The tax imposed in this chapter shall be known and cited as the " St. Charles Local Fuel Tax".

(2018-M-30 : § 1)

### 3.54.020 – Definitions

For the purposes of this chapter whenever any of the following words, terms or phrases are used, they shall have the meaning ascribed to them in this section.

- A. MOTOR FUEL: All volatile liquids compounded or used for fueling motor vehicles, including gasoline, gasohol, compressed natural gas, propane and diesel fuel.
- B. MOTOR FUEL RETAILER: Any person, firm or corporation engaged in the business of selling Motor Fuel at retail, and not for resale.
- C. Owner means any person having a sufficient proprietary interest in conducting the operation of a Motor Fuel Retailer so as to entitle such a person to all or a portion of the net receipts thereof.
- D. Person means any natural person, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, copartnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise; whenever the term " person" is used in any clause prescribing and imposing a penalty, the term as applied to associations means the owners or part-owners thereof, and as applied to corporations, the officers thereof.

(2018-M-30 : § 1)

### 3.54.030 – Imposition of tax

- A. Commencing on November 1, 2018, there is levied and imposed upon the privilege of purchasing Motor Fuel at retail at any Motor Fuel Retailer in the city, a tax of two cents per gallon (\$.02/ gallon) exclusive of any other tax imposed on such Motor Fuel sales at retail.

(2018-M-30 : § 1)

### **3.54.040 – Liability for payment**

- A. The ultimate incidence of and liability for payment of the tax imposed by this chapter shall be borne by the person who seeks the privilege of purchasing Motor Fuel sold at such Motor Fuel Retailer, such person hereinafter referred to as "consumer."
- B. The tax levied in this chapter shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner, manager or operator of every Motor Fuel Retailer to collect the tax from the consumer and pay the tax to the City under the rules and regulations prescribed by the Mayor and as otherwise provided in this chapter.

(2018-M-30 : § 1)

### **3.54.050 – Collection**

Every person required to collect the tax levied by this chapter shall collect the tax from the consumer at the time he collects payment for the sale of Motor Fuel at retail.

(2018-M-30 : § 1)

### **3.54.060 – Notices**

Any notice or other written communication from the City regarding the tax imposed by this chapter shall be sent to the owner at the address provided in the Motor Fuel Retailer registration form.

(2018-M-30 : § 1)

### **3.54.070 – Rules and regulations**

The Mayor of the City may promulgate rules and regulations not inconsistent with the provisions of this chapter concerning the enforcement and application of this chapter. The term " rules and regulations" includes, but is not limited to, a case-by-case determination whether or not the tax imposed by this chapter applies.

(2018-M-30 : § 1)

### **3.54.080 – Filing of return; payment of tax**

The owner of each Motor Fuel Retailer within the City shall file tax returns showing tax receipts received during each monthly period on forms prescribed by the Mayor. The returns shall be due on or before the last day of the calendar month next succeeding the end of the monthly filing period.

At the time of filing such returns, the owner shall pay to the City all taxes due for the period to which the tax return applies, less a commission of one percent (1%) of the amount of the tax, which is allowed to reimburse the owner for the expenses incurred in keeping records, billing, preparing and filing returns, remitting the tax and supplying data to the city upon request. No commission may be claimed by an owner for taxes not timely remitted to the city.

(2018-M-30 : § 1)

### **3.54.090 – Late payment and/or filing; failure to pay and/or file**

- A. If for any reason a tax imposed under this chapter is not paid when due, a penalty shall be added and collected. For the first offense, \$50.00 or five percent (5%) on the amount of tax which remains unpaid, whichever is greater; for the second offense, \$100 or five percent (5%) on the amount of tax which remains unpaid, whichever is greater; and for the third and subsequent offenses, \$150.00 or five percent (5%) on the amount of tax which remains unpaid, whichever is greater. Whenever any person shall fail to pay any tax as provided in this chapter, the city attorney upon the request of the finance director shall bring or cause to be brought an action to enforce the payment of the tax on behalf of the city in any court of competent jurisdiction.
- B. If no return is filed or tax paid before the Finance Director issues a notice of tax liability under section 3.54.150, a penalty of twenty-five percent (25%) of the full amount of tax claimed due shall be added thereto. If a penalty is assessed under this subsection, no penalty shall be assessed under subsection A.

(2018-M-30 : § 1)

### **3.54.100 – Interest**

Interest shall accrue on any late payment, underpayment or nonpayment of tax at the rate of one and one-quarter percent (1.25%) added per month to the amount of tax unpaid and uncollected.

(2018-M-30 : § 1)

### **3.54.110 – Records**

- A. Every owner, manager or operator of a Motor Fuel Retailer in the city shall keep books and records for a period of at least forty-eight (48) months, unless otherwise authorized by the city, which at a minimum shall include a report showing:
  - 1. The number of gallons of Motor Fuel sold and the amount of taxes collected for each day of the calendar month.
- B. The Mayor or his designee shall at all reasonable times have full access to such books and records.
- C. To the fullest extent permitted by law, the financial records of any Motor Fuel Retailer submitted pursuant to this chapter or any rule and regulation promulgated thereunder shall not be available for public inspection in order to protect the owners' right to privacy.

(2018-M-30 : § 1)

### **3.54.120 – Suspension or revocation of licenses for failure to pay tax; hearing**

If the Mayor or other city official responsible for the issuance of a city license, permit or other approval, including, but not limited to, a liquor license and/or a video gaming license, after hearing held by or for him, shall find that any person has willfully evaded payment or collection and remittance of the tax imposed by this chapter, he may suspend or revoke such city license, permit or other approval held by such tax evader. The person shall have an opportunity to be heard at such hearing to be held not less than seven (7) days after notice is given to him of the time and place of the hearing to be held, addressed to him at his last known place of business. Pending said notice, hearing and finding, any license, permit or other approval issued by the city to the person may be temporarily suspended. No suspension or revocation hereunder shall release or discharge said person from his civil liability for the payment or collection and remittance of the tax, nor from prosecution for such offense. Notwithstanding the foregoing, any suspension or revocation of a liquor license shall follow the procedures set forth in, and otherwise comply with, the provisions of chapter 5.08 of this code. Notwithstanding the foregoing, any suspension or revocation of a video gaming license shall follow the procedures set forth in, and otherwise comply with, the provisions of chapter 5.09 of this code.

(2018-M-30 : § 1)

**3.54.140 – Disposition of proceeds**

All proceeds resulting from the imposition of the tax under this chapter, including penalties, shall be paid into the treasury of the city, and shall be credited to and deposited in the corporate fund of the city and shall be allocated for roadway improvements and roadway maintenance.

(2018-M-30 : § 1)

**3.54.150 – Preparation; service of citations**

The Finance Director and his designees are deemed peace officers and may prepare and serve citations personally or by certified mail for violations of this chapter.

(2018-M-30 : § 1)