

## CHAPTER 24

### TAXES

(Ord. 2013-07)

**24.01 MUNICIPAL RETAILERS' OCCUPATION TAX.** (a) Tax Imposed. A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in the village at a rate of one percent of the gross receipts from sales made in the course of such business in accordance with the provisions of Section 8-11-1 of the Illinois Municipal Code.

(b) Report. Every such person engaged in such business in the village shall file on or before the 15th day of each calendar month the report to the State Department of Revenue required by Section 3 of "An Act in Relation to a Tax Upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption," approved June 28, 1933, as amended, and shall file a duplicate of such report with the Village Clerk.

(c) Payment of Tax. At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the preceding month.

**24.02 MUNICIPAL SERVICE OCCUPATION TAX.** (a) Tax Imposed. A tax is hereby imposed upon all persons engaged in the village in the business of making sales of service at the rate of one percent of the cost price of all tangible personal property transferred by such serviceman either in the form of tangible personal property or in the form of real estate as an incident to a sale of service, in accordance with the provisions of Section 8-11-5 of the Illinois Municipal Code.

(b) Report. Every supplier or serviceman required to account for the Municipal Service Occupation Tax for the benefit of the village shall file, on or before the last day of each calendar month, the report to the State Department of Revenue required by Section Nine of the Service Occupation Tax Act, enacted by the Seventy-Second General Assembly.

(c) Payment of Tax. At the time the report required above is filed, there shall be paid to the State Department of Revenue the amount of the tax hereby imposed.

**24.03 LOCALLY IMPOSED AND ADMINISTERED TAX RIGHTS AND RESPONSIBILITY.** (Ord. 2001-2) (a) Definitions.

1. "Act" means the "Local Government Taxpayers' Bill of Rights Act;
2. "Corporate Authorities" means the Village President and Board of Trustees
3. "Locally imposed and administered tax" or "tax" means each tax imposed by the Village that is collected or administered by the Village not an agency or department of

the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the Village other than infrastructure maintenance fees.

4. "Local tax administrator" the Village's Comptroller is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this Section to give full effect to this Section. The exercise of such authority by the local tax administrator shall not be inconsistent with this Section and the Act.

5. "Notice" means each audit notice, collection notice or other similar notice or communication in connection with each of the Village's locally imposed and administered taxes.

6. "Tax Ordinance" means each ordinance adopted by the Village that imposes any locally imposed and administered tax.

7. "Taxpayer" means any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the Village.

(b) Notices. Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than seven (7) calendar days prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator via first class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address, or, personal service or delivery.

(c) Late Payment. Any notice, payment, remittance or other filing required to be made to the Village pursuant to any tax ordinance shall be considered late unless it is physically received by the Village on or before the due date, or received in an envelope or other container displaying a valid, readable U.S. Postmark dated on or before the due date and properly addressed to the Village with adequate postage prepaid.

(d) Payment. Any payment or remittance received for a tax period shall be applied in the following order: first to the tax due for the applicable period; second to the interest due for the applicable period; and third to the penalty for the applicable period.

(e) Certain Credits and Refunds.

1. The Village shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction.

However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

2. The statute of limitations on a claim for credit or refund shall be four (4) or less years after the end of the calendar year in which payment in error was made. The Village shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the Village.

3. The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:

(i) the taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying the name of the locally imposed and administered tax subject to the claim; the tax period for the locally imposed and administered tax subject to the claim; the date of the tax payment subject to the claim and the cancelled check or receipt or the payment, the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and, a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be not refund and only a credit given in the event the taxpayer owes any monies to the Village.

(ii) within ten (10) days of the receipt by the local tax administrator of any claim for a refund or credit the local tax administrator shall either grant the claim or deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.

(iii) in the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of 9% per annum, based on a year of 365 days and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

(f) Audit Procedure. Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Section.

1. Each notice of audit shall contain the following information: the tax; the time period of the audit; a brief description of the books and records to be made available for the auditor.

2. Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another

date and time may be requested by the taxpayer within thirty (30) days after the originally designated audit and during normal business hours.

3. The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than seven (7) days or more than thirty (30) days from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event the taxpayer is unable to comply with the audit on the date on the date in question, the taxpayer may request another date within the thirty (30) days, approved in writing that is convenient to the taxpayer and the local tax administrator.

4. Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English language and shall be subject to and available for inspection by the Village.

5. It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the Village. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

6. If an audit determines there has been an overpayment of a locally imposed and administrated tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within thirty (30) days of the Village's determination of the amount of overpayment.

7. In the event a tax payment was submitted to the incorrect local governmental entity, the local tax administrator shall notify the local governmental entity imposing such tax.

(g) Appeal.

1. The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (i) the reason for the assessment
- (ii) the amount of the tax liability proposed
- (iii) the procedure for appealing the assessment
- (iv) the obligations of the Village during the audit, appeal, refund and collection process

2. A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within forty-five days (45) of receipt of the written notice of the tax determination and assessment.
3. If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within fourteen (14) days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.
4. If a written protest and petition for hearing is not filed within the forty-five (45) day period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.
5. Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than ninety (90) days after the expiration of the forty-five (45) day period.

(h) Hearing.

1. Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under paragraph (g) above, the local tax administrator shall conduct a hearing regarding any appeal.
2. No continuance shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed fourteen (14) days.
3. At the hearing the local tax administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.
4. At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

(i) Interest and Penalties. In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

1. The Village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be 9.0% per annum, based on a year of 365 days and the number of days elapsed.

2. If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of five percent (5%) of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of five percent (5%) of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the Village issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to twenty-five percent (25%) of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

(j) Abatement. The local tax administrator shall have the authority to waive or abate late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

(k) Installment Contracts. The Village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is thirty (30) days delinquent, the taxpayer shall have fourteen (14) working days to cure any delinquency. If the taxpayer fails to cure the delinquency within the fourteen (14) day period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

(l) Statute of Limitations. The Village, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have forty-five (45) days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

1. No determination of tax due and owing may be issued more than 4 years maximum after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

2. If any tax return is not filed or if during any 4 year period for which a notice of tax determination or assessment may be issued by the Village, the tax paid was less than

75% of the tax due, the statute of limitations shall be six (6) years maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

3. No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

(m) Voluntary Disclosure. For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of one percent (1%) per month, for all periods prior to the filing for the application but not more than four (4) years before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than ninety (90) days after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However any additional amounts owed as a result of an underpayment of tax and interest previously paid under this paragraph must be paid within ninety (90) days after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to be the local tax administrator, whichever is longer.

(n) Publication of Tax Ordinances. Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the Village Clerk's office.

(o) The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall timely remove the lien at the Village's expense; correct the taxpayer's credit record; and correct any public disclosure of the improperly imposed lien.

**24.04 MUNICIPAL TELECOMMUNICATIONS TAX.** *(Ord. 2013-07)* The Village hereby imposes a Municipal Telecommunications Tax of 6% of the gross charges for qualified telecommunications under the Act under the authority of the Simplified Municipal Telecommunications Tax Act (35 ILCS 636/5-1, *et seq.*).

Said tax shall be collected and enforced by the Illinois Department of Revenue. The Illinois Department of Revenue shall have full power to administer and enforce the

provisions of this Ordinance.

**24.05 MUNICIPAL UTILITY TAX.** *(Ord. 2013-04)*

A. For the purposes of this Section the definitions found in 65 ILCS 5/8-11-2 shall be applicable:

B. A tax is imposed on all persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the Village, and not for resale, at the rate of five percent of the gross receipts therefrom.

C. No tax is imposed by this Section with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the constitution and statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing or selling gas be subject to taxation under the provisions of this Section for such transactions as are or may become subject to taxation under the provisions of the Municipal Retailers' Occupation Tax Act, authorized by 65 ILCS 5/8-11-1.

D. Such tax shall be in addition to the payment of money, or value of products or services furnished to this municipality by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

E. Beginning on or before the last day of May 2013, and on or before the last day of each month thereafter, each taxpayer shall make a return to the Village Clerk for the preceding month, stating:

1. Taxpayer's name;
2. Taxpayer's principal place of business;
3. Taxpayer's gross receipts during those months upon the basis of which the tax is imposed;
4. Amount of tax;
5. Such other reasonable and related information as the corporate authorities of the Village may require.

On or before the last day of every month thereafter, each taxpayer shall make a like return to the Village Clerk for a corresponding one month period.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village Clerk, the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based

upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

F. If it shall appear that an amount of tax has been paid which was not due under the provisions of this Ordinance, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Ordinance from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three years prior to the filing of a claim therefore shall be so credited.

G. No action to recover any amount of tax due under the provisions of this Ordinance shall be commenced more than three years after the due date of such amount.

H. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Ordinance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$750 and in addition shall be liable in a civil action for the amount of tax due. The Richmond Village Code Appendix A listing applicable fines shall be updated accordingly to reflect this amount.

**24.06 MUNICIPAL ELECTRIC UTILITY TAX.** *(Ord. 2013-08)*

(a) Definitions. For the purposes of this Section, the definitions found in 65 ILCS 5/8-11-2 shall be applicable:

(b) Tax Imposed; Implementation and Collection of Tax.

1. Pursuant to 65 ILCS 5/8-11-2 and any and all other applicable authority, a tax is hereby imposed upon the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each purchaser:

<u>Kilowatt Hours Used Or Consumed In A Month</u>	<u>Cents Per Kilowatt Hour</u>
First 2,000	0.61
Next 48,000	0.40
Next 50,000	0.36
Next 400,000	0.35
Next 500,000	0.34
Next 2,000,000	0.32
Next 2,000,000	0.315
Next 5,000,000	0.31
Next 10,000,000	0.305
All in excess of 20,000,000	0.30

## 2. Collection of Tax

- (i) Subject to the provision in Section 24.06(c) regarding the delivery of electricity to resellers, the tax imposed under this Section shall be collected from the purchaser by the person maintaining a place of business in the State of Illinois who delivers electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid is recoverable in the same manner as the original charge for delivering the electricity.
  - (ii) Any tax required to be collected by this Section and any such tax which is collected by a person delivering electricity shall constitute a debt owed to the Village by the person delivering the electricity; provided, that the person delivering electricity shall be allowed credit for such tax related to deliveries of electricity, the charges for which are written off as uncollectible; and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax.
  - (iii) Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to three percent of the tax to reimburse the person delivering electricity for the expenses incurred in keeping records, billing customer, preparing and filing returns, remitting the tax and supplying data to the Village upon request. For purposes of this Section, any partial payment not specifically identified by the purchaser shall be deemed to be for the delivery of electricity. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the Village. Persons delivering electricity who file returns pursuant to the provisions of this Section shall, at the time of filing such return, pay the village the amount of the tax collected pursuant to this Section.
- (c) Exemption from Tax; Construction with Other Laws.
- 1. Electricity that is delivered to a person in the Village shall be considered to be for use and consumption by that person unless the person receiving the electricity has an active resale number issued by the Village (upon a request made to the Village by that person following provision to the Village of sufficient documentation) and furnishes that number to the person who delivers the electricity, and

certifies to that person that the sale is either entirely or partially nontaxable as a sale for resale.

2. The tax is in addition to all taxes, fees and other revenue measures imposed by the Village, the State of Illinois or any other political subdivision of the State of Illinois.
3. Notwithstanding any other provision of this Section, the tax shall not be imposed if and to the extent that imposition or collection of the tax would violate the Constitution or statutes of the United States or the Constitution or statutes of the State of Illinois.

(d) Tax Remittance and Return.

1. On a monthly basis every tax collector shall make and file a tax return in a form prescribed by the Village. The tax return shall be due on or before the last day of the month following the month during which the tax is collected or is required to be collected under Section 24.06(c). The tax collectors filing returns pursuant to this Section shall at the time of filing such return pay the Village the amount of the tax imposed by this Section.
2. If the person delivering electricity fails to collect the tax from the purchaser or is excused from collecting the tax under Section 24.06(a), then the purchaser shall file a tax return in a form prescribed by the Village and pay the tax directly to the Village on or before the last day of the month following the month during which the electricity is used or consumed.

(e) Books and Records; Credits and Refunds; Penalties.

1. Every tax collector, and every taxpayer required to pay the tax imposed by this Section, shall keep accurate books and records of the business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this Section. The books and records shall be subject to and available for inspection at all times during business hours.
2. Notwithstanding any other provision in this Section, in order to permit sound fiscal planning and budgeting by the Village, no person shall be entitled to a refund of, or credit for, a tax imposed under this Section unless such person files a claim for refund or credit within one year after the date on which the tax was paid.
3. Any taxpayer subject to the tax imposed under this Section who fails to make a return, or who makes a fraudulent return, shall be subject to a

fine of not less than \$100 or more than \$750. In addition to the fine herein set forth, such person shall be liable in a civil action for the amount of tax due and unpaid. The Richmond Village Code Appendix A listing applicable fines shall be updated accordingly to reflect this amount.