

**TITLE NINE – Taxation**  
Chap. 181. Income Tax.  
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**CHAPTER 181**  
**Income Tax**

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**181.01 PURPOSE.**

(a) To provide funds for the purposes of general Municipal operations, maintenance of equipment, new equipment, extension, enlargement and improvement of Municipal services and facilities and capital improvements, there shall be and hereby is levied a tax on income, qualifying wages, commissions and other compensation and net profits as hereinafter provided in Ordinance 2003-21, passed 12/23/03, and as subsequently amended or replaced. This Ordinance replaces Ordinance 25-1992, and amendments thereto.

(b) To provide additional funds for the purpose of Capital Improvements, but not limited to, development, construction and maintenance of storm and sanitary sewers, there shall be and hereby is levied a tax on income, qualifying wages, commissions and on net profits as provided in Section 181.031.

**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. The singular shall include the plural and the masculine shall include the feminine and the neuter:

“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 (ORC) section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.

"Association" means a partnership, limited partnership, limited liability company, or any other form of unincorporated enterprise.

"Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, corporation, association or any other entity.

"Corporation" means a corporation, including Chapter S Corporations as defined in the federal tax code, 26 U.S.C. 1361, or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, foreign country or dependency.

“Domicile” means the permanent legal residence of a taxpayer. A taxpayer may have more than one residence but not more than one domicile.

"Employee" means one who works for income, wages, salary, commission or other types of compensation in the service and under the control of an employer.

"Employer" means an individual, partnership, limited 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 an income, salary, wage, commission or other compensation basis.

"Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.

"Generic form" means an electronic or paper form designed for reporting estimated municipal income taxes, and/OR annual municipal income tax liability, and/or separate requests for refunds, and that contain all the information required on Stryker’s regular tax return and estimated payment forms, and are in a similar format that will allow processing of the generic forms without altering the Village’s procedures for processing forms.

"Gross receipts" means total revenue derived from sales, work done, or service rendered.

“Income” means all monies, subject to limitations imposed by ORC 718, derived from any source whatsoever, including but not limited to:

(A) All income, qualifying wages, commissions, other compensation and other income from whatever source received by residents of the Village.

(B) All income, qualifying wages, commissions, other compensation and other income from whatever source received by nonresidents for work done or services performed or rendered or activities conducted in the Village.

(C) The portion attributable to the Village of the net profits of all unincorporated businesses, associations, professions, corporations, or other entities, from sales made, work done, services performed or rendered, and business or other activities conducted in the Village.

"Net profits" means, for taxable years prior to 2004, the net gain from the operation of a business, profession, including rental projects, or enterprise after provision for all cost and expense incurred in the conduct thereof, including reasonable allowance for depreciation, depletion, amortization and reasonable additions to reserve for bad debts, either paid or accrued in accordance with recognized principles of accounting applicable to the method of accounting regularly employed and without deduction for salaries paid to partners or other owners all in accordance with

the accounting system used by the taxpayer for Federal income tax purposes and without deducting taxes imposed by this chapter. (For taxable years 2004 and later, see “adjusted federal taxable income”).

"Non-resident" means a person domiciled outside the Village of Stryker.

"Nonresident unincorporated business entity" means an unincorporated business entity not having any office or place of business within the Village.

"Other entity" means any person or unincorporated body not previously named or defined and includes fiduciaries located within the Village of Stryker.

"Other payer" means any person that pays an individual any item in the taxable income of the individual other than the individual's employer or that employer's agent.

"Pass through entity" means a partnership, S Corporation, Limited Liability Company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

"Person" means every natural person, partnership, limited partnership, corporation, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.

"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 or her regular employees regularly in attendance.

“Qualifying wage” means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. “Qualifying wage” represents employees’ income from which municipal tax shall be deducted by the employer, and any wages not considered a part of “qualifying wage” shall not be taxed by the Village. This definition is effective January 1, 2004, for taxable years 2004 and later.

"Resident" means an individual domiciled in the Village of Stryker.

"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the Village.

"Return preparer" means any person other than the 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.

"Tax Administrator" means the individual charged with direct responsibility for administration of the tax levied by the Village of Stryker on income.

"Taxable income" means wages, salaries and other compensation paid by an employer before any deduction, rental income, farm income and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with this chapter.

"Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter, and, in the case of a return for fractional part of a year, the period for which such return is required to be made. Unless approved by the Clerk, the taxable year of an individual shall be a calendar year.

"Taxpayer" means a person, whether an individual, partnership, limited partnership, corporation, association or other entity, required hereunder to file a return or to pay a tax hereunder.

"Village" means the Village of Stryker, Ohio.

### **181.03 IMPOSITION OF TAX.**

Subject to the provisions of Section 181.15, an annual tax for the purpose specified in Section 181.01, shall be levied on and after January 1, 1970, at the rate of one percent (1 %) per annum upon the following:

(a) On all income, qualifying wages, commissions and other compensation earned or received on and after January 1, 1970, by resident individuals of the Village of Stryker. Lottery, gambling, and sports winnings shall also be taxable, and in no circumstance shall deductions be allowed against these winnings. However, deductions shall be allowed against gambling and sports winnings, if the taxpayer is considered a professional gambler for federal income tax purposes.

(b) On all income, qualifying wages, commissions and other compensation earned or received on and after January 1, 1970, by non-resident individuals of the Village of Stryker, for work done or services performed or rendered in the Village of Stryker.

(c) On the net profits attributable to Stryker, earned on or received and after January 1, 1970, of all resident associations, unincorporated businesses, professions and other activities, derived from work done or services rendered or performed and business or other activities conducted in the Village of Stryker.

(d) On the net profits attributable to Stryker earned or received on and after January 1, 1970, of all non-resident associations, unincorporated businesses, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the Village of Stryker.

(e) On the net profits earned on and after January 1, 1970, of all corporations derived from sales made, work done or services performed or rendered and business or other activities conducted in the Village of Stryker, whether or not such corporations have an office or place of business in the Village.

(f) The portion of the net profits attributable to the Village of Stryker of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the Village of Stryker shall be determined as provided in Ohio R.C. 718.02 and in accordance with Section 181.04.

(g) Losses from incorporated businesses, non-incorporated businesses, profession or other activities are not deductible against income, salaries, wages, commissions or any compensation.

(h) Losses cannot be carried forward or backward into another year.

### **181.031 ADDITIONAL ONE-HALF PERCENT FOR CAPITAL IMPROVEMENTS.**

(a) Imposition of Tax. An annual income tax for the purpose specified in Section 181.01 (b) shall be imposed at the rate of one-half of one percent (.5 %) per annum in addition to the one percent (1 %) currently being levied and collected.

(b) Levy, Collection and Payment of Tax. Such tax shall be levied, collected and paid with respect to the income, qualifying wages, commissions, and other compensation on and after September 1, 1989, and with respect to the net profits of associations, corporations, businesses, professions or other activities earned on or after September 1, 1989. Provided, however, that where the fiscal year of

the association, corporation, business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profits for the fiscal year as shall be earned on or after September 1, 1989, to the close of the taxpayer's fiscal year. Thereafter, the taxpayer shall report on its fiscal year basis.

(c) Allocation of Funds. The funds collected under the provisions of this chapter shall be deposited in the Capital Improvement Fund and shall be disbursed in the following order:

(1) Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof.

(2) The balance shall be used to defray operating expenses of the Village for Capital Improvements of the Village, and maintenance of storm and sanitary sewers.

(3) The one-half of one percent (.5%) effective September 1, 1989, shall be used exclusively for Capital Improvements and back debt for the Village of Stryker, and shall not be subject to the provisions of (c)(1) and (c)(2) of this Section.

(d) Scope. Except for the allocation of funds for this tax as set forth above, all of the sections of this chapter pertaining to the Income Tax shall apply to the tax levied under this section.

(e) Income Tax Rules and Regulations. The income tax rules and regulations adopted by the Village of Stryker pursuant to this chapter shall apply to the income tax levied under this section.

(f) Effective Period. The additional one-half of one percent income tax in this section and this chapter shall continue effective until terminated or otherwise altered by Council.

#### **181.04 DETERMINATION OF INCOME SUBJECT TO TAX.**

(a) Net profit from a business or profession conducted both within and without the boundaries of the Village of Stryker shall be considered as having a taxable situs in the Village of Stryker for purposes of income taxation in the same proportion as the average ratio of:

(1) The average original cost of real and tangible personal property owned or used by the taxpayer in the business or profession in the Village of Stryker during the taxable period of the average original cost of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. 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.

(2) Wages, salaries, or other compensation paid during the taxable period to persons employed in the business or profession for services performed in the Village of Stryker to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed. Wages, salaries, and other compensation shall be included to the extent that they represent qualifying wages.

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the Village of Stryker to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

In the event that the foregoing apportionment formula does not produce an equitable result, another basis may, under uniform regulations be submitted so as to produce such result.

(b) As used in subsection (a) hereof, "Sales made in the Village of Stryker" means:

(1) All sales of tangible personal property which is delivered within the Village of Stryker regardless of where title passes if shipped or delivered from stock of goods within such Village.

(2) All sales of tangible personal property which is delivered within the Village of Stryker regardless of where title passes even though transported from a point outside such Village if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the Village of Stryker and sales result from such solicitation or promotion.

(3) All sales of tangible personal property which is shipped from a place within the Village of Stryker to purchasers outside such Village regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in solicitation or promotion of sales at the place where delivery is made.

(c) In the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, the Village shall not tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the Village, a greater amount than the net profit reported by the taxpayer on Schedule C filed in reference to the year in question as taxable income from such sole proprietorship, except as otherwise specifically provided by Ordinance or Regulation.

(d) Losses from the operation of a business or profession cannot be used to reduce wages from employment or other employment compensation.

(e) After January 1, 2001, compensation shall not be subject to tax if it is compensation paid to a nonresident employee by a nonresident employer for work or services performed in the Village if the services or work is performed during twelve (12) or fewer days during the calendar year, and further provided that the individual's employer is located outside of the Village and the individual pays tax on the compensation to the municipal corporation in which the employer's principal place of business is located and no portion of the tax paid is refunded to the individual. A day is hereby defined as a full day or any fractional part of a day. This subsection does not apply to professional entertainers, professional athletes, promoters of professional entertainment or sporting events and their employees.

#### **181.05 EFFECTIVE DATE.**

Such tax shall be levied, collected and paid with respect to income, qualifying wages, commissions and other compensation earned on and after January 1, 1970, and with respect to the net profit of associations, corporations, businesses, professions and other activities earned on and after January 1, 1970. Provided, however, that where the fiscal year of the association, corporation, business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profits for the fiscal year as shall be earned on and after January 1, 1970, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal year basis.

#### **181.06 RETURN AND PAYMENT OF TAX.**

(a) All taxpayers in the Village of Stryker and nonresident corporations and associations subject to the Income Tax of the Village of Stryker shall file a return. There shall be no joint returns for husband and wife. Each party is to file a separate return for that taxpayer.

Each person who engages in business, or whose income, qualifying wages, commissions and other compensation are subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file on or before April 30 of each year prior to taxable year 2004, and on or before April 15th for taxable years 2004 and later, setting forth:

(1) The aggregate amount of income, salaries, wages, commissions and other compensation earned or received by him, and income from such business, less allowable expenses incurred in the acquisition of such income gross receipts, during the preceding year and subject to such tax;

(2) The amount of the tax imposed by this chapter; and

(3) Such other pertinent statements, information returns or other information returns or information as the Tax Administrator requires, including but not limited to copies of all W-2 forms, 1099 Miscellaneous Income Forms, page one of form 1040, Page One and Two of Form 1120, 1120S (including (K-1), 2106, 1065, Schedule C (including cost of goods manufactured and/or sold), Schedule E, schedule F and any other Federal Schedules if applicable.

(b) A taxpayer on a fiscal year accounting basis for Federal tax purposes shall, beginning with his first fiscal year, file his annual returns within 105 days from the end of his fiscal year.

(c) The Tax Administrator, for taxable years prior to 2004, may extend the time for filing of the annual return. The taxpayer shall make the request by filing a copy of the taxpayer's request for a federal filing extension with the Tax Administrator. The request shall be filed no later than the last day for filing Stryker's Income Tax Return, and shall be granted for one month beyond any extension requested of and granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. for taxable year 2004 the extended due date 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. The tax administrator may deny the extension if the taxpayer's income tax account with the Village is delinquent in any way. for taxable years subsequent to 2004 the extended due date shall be the last day of the month to which the due date of the federal income tax return has been extended. The Tax Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon, by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final-tax paid within the period as extended.

(d) Any person who fails to file an extension within the periods set forth in this section is hereby assessed a penalty of fifteen dollars (\$15.00), which sum shall be paid by such person when he or she files his or her extension. Any person who is delinquent in the filing of such extension and the payment of such penalty for a period of more than sixty days shall be prosecuted under this chapter.

(e) The taxpayer making such return shall, at the time of the filing thereof pay to the Village the amount of taxes shown as due thereon: provided, however, that where any portion of the tax so due shall have been deducted at the source, pursuant to the provisions of Section 181.07, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return. Should it then appear that the taxpayer has paid more than the amount of tax to which the Village is entitled under the provisions of this chapter, such overpayment shall be refunded, or at the option of the taxpayer, credited to his next year's tax liability; provided however, that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded. Within three months from the final determination of any Federal tax liability affecting the taxpayer's Village tax liability, such taxpayer shall make and file an amended Village

return showing income subject to the Village 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.

(f) Any affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the Village. However, once the affiliated group has elected to file a consolidated return or a separate return with the Village, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the Village.

(1) In the case of a corporation that carries on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, the Tax Administrator shall require such additional information as may be necessary to ascertain whether net profits allocable to the Village are being distorted by the shifting of income, apportionment of expenses, or other devices available to a common control.

(2) If the Tax Administrator finds that a corporation's net profits allocable to the Village are distorted by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, he shall adjust such transactions so as to produce a fair and proper allocation of net profits to the Village.

(g) Those officers or employees having control or supervision of, or charged with, the responsibility of filing the return and making payments for a corporation or association shall be personally liable for failure to file the return or pay the taxes and penalties and interest due as required. The dissolution, bankruptcy, reorganization, merger, or other change in identity of any employer does not discharge the officers' or employees' liability for a prior failure of such business to file a return or pay the taxes due.

(h) Solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise or services shall be subject to a graduated fee no lower than twenty-five dollars (\$25.00) and no greater than one hundred dollars (\$100.00) in lieu of filing a return.

(i) After January 1, 2001, Stryker shall accept a generic form of return if it contains all of the information required to be submitted with Stryker's prescribed returns, reports, or documents.

The Tax Administrator shall promulgate rules and regulations, approved by the Board of Appeals, for implementations of this Section.

#### **181.07 COLLECTION AT SOURCE.**

(a) Each employer within or doing business within the Village who employs one or more persons on a income, salary, wage, commission or other compensation basis, shall, at the time of payment thereof, deduct there from one and one half (1.5 %) of the gross income, qualifying wages, commission or other compensation due from the employer to the employee. On or before the 20th day of each month following the close of the calendar quarter, a return must be filed and payment made to the Village Income Tax Department covering the previous quarter's liability. An employer who withholds one thousand two hundred dollars (\$1,200.00) or more per year based on the previous year's withholdings must, before the 20th of each following month pay the taxes so withheld to the Income Tax Department on a monthly basis. Such return shall be on a form prescribed by or acceptable to the Income Tax Department and shall be subject to the rules and regulations prescribed therefore by the Village.

The Tax Administrator is authorized to enter into agreement with employers outside the Village, provided they have the written consent of the employees affected, to collect such taxes at the source in the same manner as provided herein.

(b) Such employer, and its officers and employees who have charge of or supervision of collecting the tax, shall be deemed to hold the same until payment is made by such employer to the Village as a trustee for the benefit of the Village and any such tax collected by such employers shall, until the same is paid to the Village, be deemed a trust fund in the hands of such employer. The aforementioned employer, officers and employees are liable for payment of such trust to the Village, whether actually collected by such employer or not.

(c) No person shall be required to withhold the tax on the wages, or other compensation paid domestic servants employed exclusively in or about such person's residence.

(d) On or before February 28 of each year the Village Income Tax Department will require the filing of employee earning reports as to the Federal Form W-2, and also Federal Form 1099-MISC, as of December 30, 1970 and for subsequent years. The Stryker Income Tax Department will require as of December 30, 1970 and for subsequent years a reconciliation of total payrolls with Stryker Income Tax withheld.

(e) All employers that provide any contractual service within the Village, and who employ subcontractors in conjunction with that service, shall provide the Village the names and addresses of the subcontractors. The subcontractors shall be responsible for all income tax withholding requirements under this ordinance.

#### **181.08 DECLARATIONS.**

(a) Every person who anticipates any taxable income which is not subject to the provisions of Section 181.07, or who engages in any business shall file a declaration setting forth such estimated income or the estimated profit or loss from such business during the year covered by the declaration, together with the estimated tax due thereon, if any.

(b) Exclusive of taxpayers filing on a fiscal basis, such declaration shall be filed on or before April 30 of each year, and on or before April 15 for taxable years 2005 and later.

(c) Such declaration shall be filed upon a form or forms furnished by, or obtainable upon request from the Income Tax Department, or on an acceptable generic form, which form or forms may contain a statement that the figures used in making such declaration are the figures used in making the declaration of the estimate for Federal Income Tax, adjusted to set forth only such income as is taxable under the provisions of this chapter.

(d) Estimated tax to be paid the Village by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth (1/4) of the estimated tax required to be paid by this Section, and at least a similar amount shall be paid on or before July 31st and October 31st of the taxable year, and January 31<sup>st</sup> of following year. Provided, however, that in case 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) Estimated tax to be paid to the Village by corporations and associations shall be accompanied by a payment of at least one-fourth of 90% of the estimated annual tax and at least a similar amount shall be paid on or before June 15, September 15, and December 15th. In the case of a

fiscal year taxpayer the second, third, and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth, and twelfth months of the taxable year, respectively. Provided, however, that in case 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.

(f) No penalties or interest shall be assessed, for not filing a declaration, on any resident taxpayer who was not domiciled in the Village on the first day of January in the year in which they became subject to estimated payments, nor shall penalties or interest be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period and the taxpayer filed a return for that year.

(g) Payment of Declaration is due when the form is filed except if the amount of tax is less than fifty dollars (\$50.00) no payment is due. In the event that the tax liability is fifty dollars (\$50.00) or more said taxpayer is required to file an estimated return.

(h) Any person who fails to file a declaration within the periods set forth in this section is hereby assessed a penalty of fifteen dollars (\$15.00), which sum shall be paid by such person when he or she files his or her declaration. Any person who is delinquent in the filing of such declaration and the payment of such penalty for a period of more than sixty days shall be prosecuted under this chapter.

#### **181.09 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.**

Resident individuals of the Village who are required to pay and do pay tax to another municipality on salaries, wages, commissions and other compensation for work done or services performed outside the Village or net profits from businesses, professions or other activities conducted outside the Village, may claim a credit of the amount of the tax paid by them or on their behalf to such other municipality. The credit shall not exceed one percent (1%) on such income earned in such other municipality where such tax is paid and, if the municipality is at a rate lower than 1%, the credit shall not exceed the amount paid to that municipality at that municipality's tax rate. For the purpose of this section taxable income shall include the distributive share of net profits of a resident partner's or owner's of an unincorporated business entity. A return must be filed for the purpose of claiming such credit or allowance, together with such evidence of the payment of similar tax to the municipality in which such resident has a source of income as the Tax Clerk may require.

#### **181.10 DUTIES OF THE TAX ADMINSTRATOR; RESPONSIBILITES OF THE VILLAGE FISCAL OFFICER.**

(a) It shall be the duty of the Village Fiscal Officer to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayer; to keep an accurate record thereof; and to report all monies so received. All cashiers handling tax monies shall be subject directly to the Village Fiscal Officer and shall give daily accountings to the Village Fiscal Officer.

(b) It shall be the duty of the Tax Administrator to enforce payment of all taxes owing the Village of Stryker, to keep accurate records for a minimum of six years showing the amount due from each taxpayer required to file a declaration and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(c) Said Tax Administrator is hereby charged with the enforcement of the provisions of this chapter and to enforce the rules and regulations of Council of the Village of Stryker, Ohio, relating to any matter or thing pertaining to the collection of Village Income Taxes and the administration and enforcement of the provisions of this chapter, including provisions for the examination and correction of returns and payments. Taxpayers are hereby required to comply with said rules and regulations.

(d) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount tax due, the Tax Administrator may determine the amount of tax appearing to be due the Village of Stryker from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any. Such determination may be modified or amended based upon information or data subsequently secured by or made available to the Administrator. If the taxpayer fails to respond to the assessment within 30 days, the tax, penalties, and interest assessed shall become due and payable and collectible as are other unpaid taxes.

(e) Upon recommendation of the Tax Administrator the Board of Appeals may abate penalty or interest or both, or upon an appeal from the refusal of the Tax Administrator to recommend abatement or penalty and interest the Board may nevertheless abate penalty or interest, or both.

(f) A Department of Taxation is hereby created within the office of the Village Fiscal Officer of the Village of Stryker. Such Department of Taxation shall have such deputies, clerks or other employees as may be from time to time determined by the Council of the Village of Stryker, and shall receive such salary as may be determined by the Village Council. The Village Fiscal Officer shall recommend all appointments of personnel and purchase all equipment, supplies and material for the Department of Taxation subject to approval of Council. The Department of Taxation shall be charged with the administration and operation of this chapter, under the direction of the Village Fiscal Officer. The Village Fiscal Officer shall prescribe the form and method of accounts and reports for such department. The Village Fiscal Officer shall also make written report to Council annually of all monies collected hereunder during the proceeding year.

#### **181.11 INVESTIGATIVE POWERS OF THE VILLAGE FISCAL OFFICER; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

(a) The **VILLAGE FISCAL OFFICER** or his duly authorized agent or employee, is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, or believed to be 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 due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the Village Fiscal Officer or his duly authorized agent or employee, within fifteen days following a written request by the Village Fiscal Officer or his duly authorized agent or employee, the means, facilities, and opportunity for making such examination and investigations as are hereby authorized.

(b) The Village Fiscal Officer, or his duly authorized agent or employees, is hereby authorized to examine any person, employer, or employee under oath, concerning any income which was or should have been returned for taxation, and for this purpose may compel the production of books, Federal Income tax records, papers and records and the attendance of all persons before him, whether as parties or witnesses, wherever he believes such persons have knowledge of such income.

(c) The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by an employer or person subject or presumed to be subject to the tax 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 any order or subpoena of the Village Fiscal Officer authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.99.

(d) Tax returns, investigations, hearings and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the Village of Stryker for official purposes.

(e) Any information gained as the result of the filing of any tax returns, investigations, hearings, or verification required or authorized by this chapter shall be confidential, except for official tax purposes and except in accordance with proper judicial order. Any person divulging such information shall upon conviction thereof be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee of the Village of Stryker who violates the provisions of this section relative to disclosure of confidential information shall be immediately dismissed from the service of the Village.

#### **181.12 INTEREST AND PENALTIES.**

(a) All taxes imposed by this chapter, including taxes withheld or required to be withheld from wages by an employer and remaining unpaid after they have become due, estimated tax return, and all returns required by law, shall bear interest on the amount of the unpaid tax at the rate of ten percent (10%) per annum, and the taxpayers upon whom said taxes are imposed, and the employers required by this chapter to deduct, withhold and pay taxes imposed by this chapter shall be liable, in addition thereto, to a penalty of one-half (1/2) of one percent (1 %) of the amount of the unpaid tax for each month or fraction of a month for the first six months of nonpayment, or fifteen dollars (\$15.00) whichever is greater. Upon recommendation of the Tax Administrator the Board of Appeals may abate interest or penalties, or both, and upon appeal from the refusal of the Tax Administrator to so recommend, the Board of Appeals may nevertheless abate interest or penalty, or both.

(b) For any taxpayer who will have a tax liability of fifty dollars (\$50.00) or more and who fails to file an estimated Village return and pay an estimated tax shall pay a penalty of fifteen dollars (\$15 .00) per quarter for each such quarter.

(c) Any taxpayer who is required by Federal Law to file 1099-MISC for activities within the Village a fee of twenty dollars (\$20.00) per transaction will be charged for failure to file the 1099-MISC form with the Village.

#### **181.13 ALLOCATION OF FUNDS.**

The funds collected under the provisions of Section 181.03 shall be deposited in the Expendible Trust Fund and shall be disbursed in the following order:

(a) Such part thereof as shall be necessary to defray all cost of collecting the taxes and the cost of administering and enforcing the provisions thereof.

(b) The balance shall be used to defray operating expenses of the Village and for Capital Improvements of the Village, including but not limited to, development, construction and maintenance of storm and sanitary sewers.

(c) The above allocation does not apply to the one-half percent (.5%) tax passed by voters as set forth in Section 181.031 as that levy was specifically designated for certain purposes.

#### **181.14 BOARD OF APPEALS:**

(a) There shall be a Board of Appeals. Whenever the Tax Administrator issues a decision regarding an income tax obligation that is subject to appeal as provided in Codified Ordinances of the Village of Stryker or by rules or regulations of the Village of Stryker, the Tax Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and the manner in which the taxpayer may appeal the decision.

(b) Any person who is aggrieved by a decision by the Tax Administrator and who has filed with the Village of Stryker the required returns or other documents pertaining to the Village of Stryker income tax obligation at issue in the decision may appeal the decision to the Board of Appeals. The request shall be in writing, and shall be filed within thirty days after the Tax Administrator issues the decision complained of.

(c) The Board shall schedule a hearing within forty-five 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.

(d) The Board may affirm, reverse, or modify the Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety days after the Board's final hearing on the appeal, and send notice of the decision within fifteen days after issuing the decision.

(e) Any person dissatisfied with any ruling or decision of the Board of Appeals may appeal therefrom to a court of competent jurisdiction as provided by law within thirty (30) calendar days from the date of the Board's ruling or decision. For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Appeals may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

(f) The Board of Appeals created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Ohio R.C. 149.43. Hearings requested by a taxpayer are not meetings of a public body subject to Ohio R.C. 149.43.

#### **181.15 APPLICABILITY.**

This chapter shall not apply to any person, firm, corporation, or to any property as to whom or which it is beyond the power of the Village Council of the Village of Stryker to impose the tax herein provided for.

### **181.16 SEVERABILITY.**

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such sentences, clauses, sections or parts 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 the Council of the Village of Stryker that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

### **181.17 EXEMPTIONS.**

The provision of this chapter shall not be construed as levying a tax upon the following:

- (a) The Military pay or allowances of members of the Armed Forces of the United States and of members of their reserve components, including the National Guard.
- (b) Poor relief, payments from pensions, social security, unemployment compensation, and disability benefits received from private industry or local, State or Federal governments, or charitable, religious or educational organizations.
- (c) Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organization.
- (d) Receipts by bona fide charitable, religious and educational organizations and associations, when those receipts are from casual entertainment, amusements, sport events and health and welfare activities conducted by a bona fide charitable, religious and educational organizations and associations.
- (e) Any association, organization, corporation, club or trust, which is exempt from federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc., purposes, to the extent that the said income is exempt from federal income tax.
- (f) Gains from involuntary conversions, cancellation of indebtedness, interest on Federal obligations and income of a decedent estate during the period of administration (except such income from the operation of a business).
- (g) Earnings and income of all persons under eighteen years of age, whether residents or non-residents.
- (h) Compensation for personal injuries or for damages to property by way of insurance or otherwise, but this exclusion does not apply to compensation paid for lost salaries or wages, or to compensation for punitive damages.
- (i) Compensation paid to a precinct election official, to the extent that such compensation does not exceed \$1,000 annually.
- (j) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as a part of an ordained minister's compensation. The minister must be duly ordained, commissioned, or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church.
- (k) expenses reported in accordance with federal Form 2106, subject to audit and approval by the Village income tax office.

### **181.18 COLLECTION OF UNPAID TAXES; REFUNDS OF OVERPAYMENTS.**

(a) All taxes imposed by this ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debts are recoverable. Except in the case of fraud, omission of twenty-five percent (25%) or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is

later. In the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, all additional assessments shall be made and all prosecutions to recover Municipal income taxes and penalties and interest thereon shall be brought within six (6) years after the tax was due or the return was filed, whichever is later. In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the Federal statute of limitation, the period within which an additional assessment may be made by the Tax Administrator shall be one year from the time of the final determination of the Federal tax liability.

(b) Should it appear that any taxpayer has paid more than the amount of the tax to which the Village of Stryker is entitled under the provisions of this chapter a refund of the amount so overpaid shall be made, provided a proper claim for refund of such overpayment of tax has been filed by the taxpayer, or same may be applied toward the declaration of tax due for the ensuing year. Claims for refunds shall be made on forms prescribed by and obtainable from the Tax Administrator, or on an acceptable generic form.

(c) All applications for refunds shall be made within three (3) years after the tax was due or the return was filed, whichever is later. However, the following shall apply regarding refunds of tax withheld from non-qualified deferred compensation plans (NDCP):

(1) A taxpayer may be eligible for a refund if the taxpayer has suffered a loss from a NDCP. The loss will be considered sustained only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to the NDCP. Full loss is sustained if no distribution of money and property will be made by the NDCP.

(2) A taxpayer who receives income as a result of payments from a NDCP, and that income is less than the amount of income deferred to the NDCP and upon which municipal tax was withheld, then a refund will be issued on the amount representing the difference between the deferred income that was taxed and the income received from the NDCP. If different tax rates applied to the tax years in which deferrals, a weighted average of the different tax rates will be used to compute the refund amount.

(3) Refunds shall be allowed only if the loss is attributable to the bankruptcy of the employer who had established the NDCP, or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified compensation.

(d) Income tax that has been deposited with the Village, but should have been deposited with another municipality, is allowable by the Village as a refund but is subject to the three-year limitation on refunds. Income tax that should have been deposited with the Village, but was deposited with another municipality, shall be subject to recovery by the Village. The Village will allow a non-refundable credit for any amount owed the Village that is in excess of the amount to be refunded by the other municipality, as long as the tax rate of the other municipality is the same or higher than the Village tax rate. If the Village tax rate is higher, the tax representing the net difference of the rates is also subject to collection by the Village.

(e) No refund shall be made for an amount less than one dollar (\$1.00), nor shall any tax due under this chapter in an amount less than one dollar (\$1.00), be collected.

#### **181.19 EFFECTIVE PERIOD.**

This chapter shall continue effective insofar as the levy of taxes is concerned until terminated or otherwise amended by Legislative Body of the Village of Stryker, Ohio. This chapter, insofar as the

collection of taxes levied in the aforesaid period, and actions or proceedings for collecting any tax so levied, or enforcing any provisions of this chapter are concerned, shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for punishment of violations of this chapter shall have been fully terminated.

**181.99 PENALTY.**

(a) The following shall be considered violations of this chapter:

- (1) Failing, neglecting or refusing to complete, sign and return a questionnaire issued by the Tax Administrator. Those who violate this section are subject to a penalty of fifteen dollars (\$15.00).
- (2) Failing, neglecting or refusing to make any return or declaration required by this chapter.
- (3) Making any incomplete, false or fraudulent return; or
- (4) Filing, neglecting or refusing to pay the tax, penalties or interest imposed by this chapter; or
- (5) Failing, neglecting or refusing to withhold the tax from employees or to remit such withholding to the Tax Administrator; or
- (6) Failing, neglecting or refusing to file or remit employee's earning reports for reconciliation, of total payrolls with Stryker income tax withheld imposed by this chapter; or
- (7) Refusing to permit the Village Fiscal Officer or any duly authorized agent or employee to examine books, records and papers and Federal Income Tax returns relating to the income or net profit of a taxpayer; or
- (8) Failing to appear before the Tax Administrator and to produce books, records, Federal Income Tax returns and papers relating to the income or net profit of a taxpayer under order or subpoena of the Village Fiscal Officer;  
or
- (9) Refusing to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer; or
- (10) Failing to comply with the provisions of this chapter or any order or subpoena of the Village Fiscal Officer authorized thereby; or
- (11) Attempting to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter; or

(b) Any person or person's eighteen years of age or older, whether residents or non-residents who violates any of the provisions of subsection (a) hereof shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both, for each offense.

(c) The failure of any employer or taxpayer or person to receive or procure return, declaration or other required form shall excuse him from making any information return or declaration from filing such form, or from paying the tax.

(d) Any person who fails to timely file any tax return as required by this chapter, shall be charged a penalty of fifteen dollars (\$15.00).

(e) Any person who issues or transfers a check or other negotiable instrument for the payment of any tax due pursuant to this chapter, which is subsequently dishonored, shall be charged a check fee penalty of twenty-six dollars (\$26.00).