

Chapter 16
OCCUPATION and OTHER TAXES

- 16.1 Municipal Retailers Occupation Tax
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16.1 MUNICIPAL RETAILERS OCCUPATION TAX

A. **REQUIRED TAX:** A tax is hereby imposed upon all persons engaged in the Village in the business of selling tangible personal property at retail in this Village at the rate of 1 percent of the gross receipts from the sales made in the course of such business while this Section is in effect, in accordance with the provisions of 65 ILCS 5/8-11-1.3, as amended.

B. **REPORT TO STATE:** 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 Illinois Department of Revenue as required by 35 ILCS 120/3.

C. **PAYMENT TO STATE:** At the time such report is filed, there shall be paid to the Illinois Department of Revenue the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the proceeding month, together with any penalties then due, if any, and such other information as may be required by 35 ILCS 120/3.

16.2 MUNICIPAL USE TAX

A. **REQUIRED TAX:** A tax is hereby imposed upon the privilege of using, in the Village, any item of tangible personal property which is purchased outside the State at retail from a retailer, and which is titled or registered with any agency of the State. The tax shall be at a rate of 1 percent of the selling price of such tangible personal property. "Selling price" is defined in 35 ILCS 105/2, the Use Tax Act.

B. **COLLECTION:** The tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the Village. Such tax shall be collected by the Illinois Department of Revenue and shall be paid before the title or certificate of registration for the personal property is issued.

16.3 MUNICIPAL UTILITY TAX ON ELECTRIC GROSS RECEIPTS

A. **DEFINITIONS:** In addition to the terms defined in Appendix A of this Code, terms, whether capitalized or not, used in this Section mean as follows:

Person: Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court.

Person maintaining a place of business in this State: Any person having or maintaining within

the State, directly or by a subsidiary or other affiliate, an office, generation facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent or other representative operating within the State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in the State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in the State.

Purchase at retail: Any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in 65 ILCS 5/8-11-2, directly in the generation, production, transmission, delivery or sale of electricity.

Purchaser: Any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail (other than an exempt purchaser).

Tax collector: The person delivering electricity to the purchaser.

B. **TAX IMPOSED:** Pursuant to the Illinois Municipal Code (65 ILCS 5/8-11-2) and any other applicable authority, a tax is imposed upon the privilege of using or consuming electricity purchased 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, except the Village:

1. For the first 2,000 Kilowatt-hours (“Kwh”) used or consumed in a month, .230 cents per Kwh;
2. For the next 48,000 Kwh used or consumed in a month, .151 cents per Kwh;
3. For the next 50,000 Kwh used or consumed in a month, .135 cents per Kwh;
4. For the next 400,000 Kwh used or consumed in a month, .132 cents per Kwh;
5. For the next 500,000 Kwh used or consumed in a month, .129 cents per Kwh;
6. For the next 2,000,000 Kwh used or consumed in a month, .120 cents per Kwh;
7. For the next 2,000,000 Kwh used or consumed in a month, .119 cents per Kwh;
8. For the next 5,000,000 Kwh used or consumed in a month, .117 cents per Kwh;
9. For the next 10,000,000 Kwh used or consumed in a month, .115 cents per Kwh; and

10. For all electricity consumed or used in excess of 20,000,000 kwh in a month, .113 cents per kwh.

The tax rates set forth hereinabove will be used at least through December 31, 2008, are proportional to the rates enumerated in 65 ILCS 5/8-11-2 (as modified by Public Act 90-561), and do not exceed the revenue that could have been collected during 1997 using the rates enumerated in 65 ILCS 5/8-11-2 (as modified by Public Act 90-561).

C. RETAIL SALE: It shall be presumed that any electricity delivered to a person within the Village is sold at retail, for its use or consumption within the Village. This presumption is refutable only by clear and convincing evidence.

D. COLLECTION: The tax imposed by this Section shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. The tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser. If the tax is unpaid it is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Section and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity, provided that the person delivering electricity shall be allowed credit for such tax related 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 to the Village. 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 be authorized to add to such gross charge an amount equal to 3 percent of the tax assessed pursuant to this Section to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting tax and supplying data to the Village. 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 in the manner prescribed herein. Persons delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the Village the amount of the tax collected pursuant to this Section.

E. BOOKS AND RECORDS:

1. Every person delivering electricity who is required to collect a tax pursuant to this Section shall keep accurate books and records of all transactions which may affect the tax provided for herein including, but not limited to, records of the number of Kilowatt-hours (Kwh) used by each consumer within the Village for each month, the charge imposed upon each consumer for the sale of the electricity and any related services, the amount of tax imposed by this Section billed to each consumer of electricity and the amount of tax actually collected, the amount of the charge imposed and collected by the electric distributor as compensation for collecting the tax, and the total gross receipts received by the electricity deliverer for each month.
2. Every person delivering electricity is required to collect a tax as set forth

herein shall provide to the Village, within 7 days of written request, copies of all records, or any part thereof, which the Village requests, which the electricity deliverer is required to keep pursuant to Section herein.

F. TAX REMITTANCE AND RETURN:

1. Every person collecting a tax pursuant to this Section shall, on a monthly basis, file a return with the Village in a form prescribed by the Village along with the total revenues collected. The return and accompanying remittance shall be delivered to the Village 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 16.03-C5.
2. Each person who is required to pay a tax pursuant to Section 16.03-C and who has not paid the tax to the electricity deliverer as provided for herein, shall file a return with the Village as provided in Section 16.03-G2 and pay directly to the Village the tax on or before the last day of the month following the month during which the electricity was used or consumed.

G. REINSTATEMENT OF UTILITY TAX ON ELECTRICITY: In the event Public Act 90-561 is declared unconstitutional, or if this Section is found unconstitutional or voided by any court of competent jurisdiction, the provisions of Section 16.03-A3 shall remain in effect in all respects as if it had never been repealed, and any amounts paid to the Village by any person delivering electricity pursuant to this Section 16.03-B shall be deemed to have been paid pursuant to Section 16.03-A3 as it existed prior to the passage of this amendment to Section.

16.4 LOCALLY IMPOSED and ADMINISTERED TAX RIGHTS and RESPONSIBILITIES

A. DEFINITIONS: In addition to the definitions in Appendix A of this Code, the following definitions are applicable to this Section:

Act: Local Government Taxpayers' Bill of Rights Act.

Locally imposed and administered tax or tax: 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.

Local tax administrator ("Administrator" for purposes of this Section): The Treasurer, who 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 Administrator to act in the Administrator's stead. The Administrator shall have the authority to implement the terms of this Section. The exercise of such authority by the Administrator shall not be inconsistent with this Section and the Act.

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

Tax ordinance: Each ordinance passed by the Village that imposes any locally imposed and administered tax.

Taxpayer: 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 7 calendar days prior to the day fixed for any applicable hearing, audit or other scheduled act of the Administrator. The notice shall be sent by the Administrator by first class or express mail, or overnight mail, addressed to the persons concerned at the person's last known address, or by personal service or delivery.

C. LATE PAYMENT: Any notice, payment, remittance or other filing required to be made by the Village pursuant to any tax ordinance shall be considered late unless it is (1) physically received by the Village on or before the due date, or (2) received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, 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: (1) to the tax due for the applicable period; (2) to the interest due for the applicable period; and (3) 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 2 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:
 - a. The taxpayer shall submit to the Administrator in writing a claim for credit or refund together with a statement specifying:
 - 1) The name of the locally imposed and administered tax

subject to the claim;

- 2) The tax period for the locally imposed and administered tax subject to the claim;
 - 3) The date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
 - 4) The taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
 - 5) 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 no refund and only a credit given in the event the taxpayer owes any monies to the Village.
- b. Within 10 days of the receipt by the Administrator of any claim for a refund or credit, the Administrator shall either:
- 1) Grant the claim; or
 - 2) 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.
- c. In the event the 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 6 percent 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 a proposed audit pursuant to any local administered tax shall comply with the notice requirements herein. The procedure shall be as follows:

1. Each notice of audit shall contain the following information: the tax; the time period of the audit; and 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 Administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within 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 7 days nor more than 30 days from the date the notice is given unless the taxpayer and Administrator agreed to some other convenient time. In the event the taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the 30 days, approved in writing, that is convenient to the taxpayer and the Administrator.

4. Every taxpayer shall keep accurate books and records of the taxpayers' business or activities, including original source documents and books of entry denoting the transactions which had given rise or may be 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 Administrator may issue a tax determination and assessment based on the 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 administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within 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 Administrator shall notify the local governmental entity imposing such tax.

G. APPEAL:

1. The Administrator shall send written notice to the taxpayer upon the issuance of a protest 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:
 - a. The reason for the assessment;
 - b. The amount of the tax liability proposed;
 - c. The procedure for appealing the assessment; and
 - d. The obligations of the Village during the audit, appeal, refund and collection process.
2. A taxpayer who receives written notice from the Administrator of a determination of tax due or assessment may file with the 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 Administrator with 45 days 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 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 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 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 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 90 days after the expiration of the 45-day period.

H. HEARING: Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing pursuant to this Section, the Administrator shall conduct a hearing regarding any appeal. 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 14 days. At the hearing the 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. At the conclusion of the hearing the 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. Interest: The Village provides for the amount of interest to be assessed on late payment, underpayment or nonpayment of the tax to be 9 percent per annum, based on a year of 365 days and the number of days elapsed.
2. Late Filing and Payment Penalties: If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty of 5 percent of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of 5 percent 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 20 percent 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 Administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the Administrator determines 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 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 Administrator that the payment is 30 days delinquent, the taxpayer shall have 14 business days to cure any delinquency. If the taxpayer fails to cure the delinquency within the 14-day period or fails to demonstrate good faith in restructuring the installment contract with the Administrator, the installment contract shall be canceled without further notice to the taxpayer.

L. STATUTE OF LIMITATIONS:

1. The Village, through the Administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall be 45 days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.
2. No determination of tax due and owing may be issued more than 2 years 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.
4. 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 percent of the tax due, the statute of limitations shall be 6 years maximum after the end of the calendar year in which return for the applicable period was due or the end of the calendar year in which the return for the applicable period was filed.
5. No statute of limitations shall 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 Administrator, a taxpayer is entitled to file an application with the 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 at 1 percent per month, for all periods prior to the filing of the application but not more than 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 90 days after the filing of the voluntary disclosure application or the date agreed to be the Administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within 90 days after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the Administrator, whichever is longer.

N. PUBLICATION OF TAX ORDINANCES. Any locally administered tax ordinance shall be published pursuant to normal and 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 Hall.

O. INTERNAL REVIEW PROCEDURE: The Administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the Administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the Administrator shall (1) timely remove the lien at the Village's expense; (2) correct the taxpayer's credit record; and (3) correct any public disclosure of the improperly imposed lien.

P. APPLICATION: This Section shall be liberally construed and administered to supplement all of the Village's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this Section, this Section shall be controlling.

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