

CHAPTER 109: LOCAL GOVERNMENT TAXPAYERS' BILL OF RIGHTS

This Chapter shall apply to the administration and enforcement of Village tax laws when the Village is responsible for collecting any taxes lawfully imposed under a Village ordinance.

This Chapter shall be liberally construed and administered to supplement all of the Village's tax ordinances. To the extent that any Village tax ordinance is in conflict with or inconsistent with this Chapter, this Chapter shall be controlling unless otherwise prohibited by state law.

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§109.01 **DEFINITIONS.**

In addition to those terms defined in this code, certain words or terms herein shall have the meanings ascribed to them as follows:

ACT: The Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 et. seq.

LOCAL TAX ADMINISTRATOR: The Village Administrator 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 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 chapter to give full effect to this chapter. The exercise of such authority by the local tax administrator shall not be inconsistent with this Chapter and the Act.

LOCALLY IMPOSED AND ADMINISTERED 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.

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.

§109.02 **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 as follows:

- (A) First class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address, or
- (B) Personal service or delivery.

§109.03 **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: a) physically received by the Village on or before the due date, or b) received in an envelope or other container displaying a valid, readable U.S. postal service postmark dated on or before the due date, properly addressed to the Village, with adequate postage prepaid.

§109.04 **PAYMENT.**

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

§109.05 **CERTAIN CREDITS AND REFUNDS.**

- (A) 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.

- (B) Unless a different statute of limitations is included in the specific provisions imposing a tax under this municipal code, the statute of limitations on a claim for credit or refund shall be two (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.
- (C) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:
1. The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
 - a. The name of the locally imposed and administered tax subject to the claim;
 - b. The tax period for the locally imposed and administered tax subject to the claim;
 - c. The date of the tax payment subject to the claim and the canceled check or receipt for the payment;
 - d. The taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
 - e. 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.
 2. 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:
 - a. Grant the claim; or
 - b. 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.
 3. 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 four percent (4%) per annum, based on a year of three hundred sixty five (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.

§109.05 **AUDIT PROCEDURE.**

Any request for proposed audit of the taxpayer's books and records pursuant to any local administered tax shall be in writing to the taxpayer and shall comply with the notice requirements of this chapter.

- (A) Each notice of audit shall contain the following information:
1. the tax;
 2. the time period to be audited;
 3. a brief description of the books and records to be made available for the auditor; and
 4. an identification of who will be conducting the audit, and in the case of a third-party auditor, the Village must provide written authorization for them to review the books and records of the taxpayer before such third-party auditor contacts the taxpayer.
- (B) Any audit shall be conducted not less than seven (7) days nor more than thirty (30) days from the date the notice is given during normal business hours. However, 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. If such time is convenient to the local tax administrator, the local tax administrator may approve the new date in writing and shall have the discretion to grant an extension to this time period.
- (C) 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.
- (D) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the Village. If the taxpayer 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.
- (E) Upon the completion of an audit, the Village must issue an audit closure report to the taxpayer with the results of the audit.
- (F) 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 thirty (30) days of the Village's determination of the amount of overpayment. If the overpayment is the result of the incorrect application of some or all of the taxpayer's tax payment to the Village instead of to another local government entity, then upon a request by that other unit of local government, the audit information must be given to any unit of local government that may be affected by the overpayment.

§109.07 **APPEAL.**

- (A) A taxpayer shall have the right to appeal a determination of a tax due.
- (B) Whenever the local tax administrator issues a protestable notice of tax due, a bill, a claim denial or a notice of claim reduction regarding any tax, the local tax administrator shall send written notice via United States registered or certified mail to a taxpayer. Such notice shall include the following information:
 - 1. The reason for the assessment;
 - 2. The amount of the tax liability proposed;
 - 3. The procedure for appealing the assessment (which may be satisfied by including a copy of this Chapter of the Village's Code, The Local Government Taxpayers' Bill of Rights); and
 - 4. The obligations of the Village during the audit, appeal, refund and collection process (which may be satisfied by including a copy of this Chapter of the Village's Code, The Local Government Taxpayers' Bill of Rights).
- (C) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or a notice of tax liability, may protest such finding by filing 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 (45) days of receipt of the written notice of the tax determination and assessment.
- (D) 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.
- (E) 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.
- (F) 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.

§109.08 **HEARING.**

- (A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under this Chapter, the Village President shall conduct a hearing regarding any appeal.
- (B) No continuances 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.
- (C) At the hearing the Village President 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.
- (D) At the conclusion of the hearing, the Village President shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer shall be provided with a copy of the written decision.

§109.09 **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.

- (A) Interest: Unless provided differently in a specific section of this code imposing a specific tax, the Village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be four percent (4%) per annum, based on a year of three hundred sixty-five (365) days and the number of days elapsed.
- (B) Late Filing and Late Payment Penalties: Unless provided differently and for a lower amount in a specific section of this Code imposing a specific tax,
 - 1. 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.
 - 2. If a tax is due and not timely paid to the Village, a late payment penalty of five percent (5%) of the tax due shall be imposed.
 - 3. If no return is filed 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 late payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

§109.10 **ABATEMENT.**

The local tax administrator shall have the authority to waive or abate any 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.

§109.11 **INSTALLMENT CONTRACTS.**

At the discretion of the local tax administrator, on behalf of the Village, the local tax administrator may, but is not required to, 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 on time and fails to cure the delinquency in the time allowed in the installment contract or if the taxpayer fails to demonstrate good faith in restructuring any installment plan agreement or contract with the local tax administrator.

§109.12 **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.

- (A) No notice of determination of tax due and owing may be issued more than four (4) years after the end of the calendar year for which the return for the applicable period was filed or the end of the calendar year in which the return for the applicable period was due, whichever occurs later.
- (B) If any tax return is not filed or if during any four (4) year period for which a notice of tax determination or assessment may be issued by the Village, the tax paid was less than seventy five percent (75%) of the tax due for that period, the statute of limitations shall be six (6) years maximum after the end of the calendar year in which the return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed, whichever occurs later.
- (C) No statute of limitations shall apply if a fraudulent tax return was filed by the taxpayer.

§109.13 **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 of the application, but not more than four (4) years before the date of filing the application. Except for the amount of tax and interest due under this Section, 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, whichever is longer. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section 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 by the local tax administrator, whichever is longer.

§109.14 **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.

§109.15 **INTERNAL REVIEW PROCEDURE.**

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:

- (A) Timely remove the lien at the Village's expense;
- (B) Correct the taxpayer's credit record; and
- (C) Correct any public disclosure of the improperly imposed lien.

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