



Food & Beverage Tax Information Packet

Included:

Instructions for completing the registration form and tax return form
Food and Beverage Tax Registration Form
Food and Beverage Tax Return Form
Copy of the Food and Beverage Tax Ordinance
Copy of the Locally Administered Tax Rights and Responsibilities Ordinance



FOOD AND BEVERAGE TAX ACKNOWLEDGEMENT FORM

I hereby acknowledge receipt of the Village of Oswego Food and Beverage Tax Information Packet which contains the following documents:

Instructions for completing the registration form and tax return form
Food and Beverage Tax Registration Form
Food and Beverage Tax Return Form
Copy of the Food and Beverage Tax Ordinance
Copy of the Locally Administered Tax Rights and Responsibilities Ordinance

Name of Business: _____

Business Address: _____

Printed Name of who received packet: _____

Signature of Representative who received packet: _____

Date signed: _____



INSTRUCTIONS FOR PREPARING THE FOOD & BEVERAGE TAX REGISTRATION FORM

SECTION 1:

Provide the name, address, telephone number and email address of the retail facility or retail liquor facility located within the Village of Oswego village limits.

SECTION 2:

Provide the name or title of the individual who will be working at the Oswego facility who is to be considered the company's local agent with regard to the collection of the Village's food & beverage tax.

SECTION 3:

Provide the name, address and telephone number of the corporate office if different than the Oswego location.

SECTION 4:

Describe the type of retail business you are going to operate within the Village of Oswego. Include the form of your business organization; provide your Federal Employee Identification Number (FEIN), provide your State of Illinois Business Taxpayer (IBT) number; indicate how you file your business state sales tax returns.

SECTION 5:

The registration form must be signed by the owner or officer of the business. The signed registration form must be returned prior to the submittal of your first Food & Beverage Tax Return.

INSTRUCTIONS FOR COMPLETING THE FOOD & BEVERAGE TAX RETURN

Provide the business information at the top of the form and complete the tax computation section to determine the amount of tax to remit to the Village.

Send in your return via mail or drop off at Village Hall. The return and payment must be received by the Village or postmarked on or before the last day of the calendar month succeeding the end of the sales tax reporting period.

A copy of your State Sales Tax form (ST-1) must be included with your return.

Failure to file the tax return and ST-1, and remit the taxes due, prior to the due date, will result in penalties being imposed and additional fines.

The Tax Return must be signed by a representative of the business.



**VILLAGE OF OSWEGO
FOOD AND BEVERAGE TAX REGISTRATION FORM**

SECTION 1:

Business name: _____

Address: _____

Telephone: _____

Email: _____

SECTION 2:

Local Agent Name and Title: _____

SECTION 3:

Corporate Name: _____

Mailing Address: _____

City, State, Zip: _____

Telephone/email: _____

SECTION 4:

Type of Business: _____

Form of Business: Sole Proprietor Partnership Corporation Other

FEIN# _____ Illinois taxpayer #: _____

Filing Illinois ST-1 frequency: Monthly Quarterly Semi-Annually Other

SECTION 5:

I hereby declare that I have examined this registration form, and to the best of my knowledge the information entered on this form is true, correct, and complete.

Signature of Owner or Officer Title Date

Printed Name of Owner/Officer

Please return this completed form to: Village of Oswego, Finance Dept.-F&B Tax
100 Parkers Mill, Oswego, IL 60543



100 Parkers Mill • Oswego, IL. 60543 • (630) 554-3618 • Fax: (630) 554-3306
Website: <http://www.oswegoil.org>

Village of Oswego Food and Beverage Tax Return Form

Business Name/Address: _____
Doing Business As: _____
Calendar Year/Reporting Period: _____
FEIN: _____

Computation of Tax Liability

- 1. Gross Sales (Should agree with IL ST-1, Line 3)..... \$ _____
- 2. Deduction of Sales Not Subject to Tax (T-shirts, etc.).....\$ _____
- 3. Taxable receipts (line 1 minus line 2).....\$ _____
- 4. Amount of Tax (Multiply Line 3 by 1% (.01)).....\$ _____
- 5. Subtract 1% collection fee (Line 4 x .01).....\$ _____
- 6. Penalty if not paid on time (multiply line 4 by 5% (.05)).....\$ _____
- 7. Total amount remitted (Line 4 minus Line 5 plus Line 6)..... \$ _____

Remittance Instructions

Please remit the amount indicated on line 7 above. Checks should be made payable to the Village of Oswego and sent to the Village at the address shown below. This form and a complete copy of the Illinois Department of Revenue Form ST-1 (state sales tax return) for the corresponding month must accompany your remittance.

The Village must receive your remittance by the last day of the month following the calendar month when the taxes were collected. If the last day of the month falls on a weekend or holiday when the Village Hall is closed, payment must be received by the next business day. However, a payment sent by mail must be postmarked no later than the last day of the month.

Affirmation: Under penalties provided by the Village of Oswego Code, I hereby affirm that the statements contained herein are taken from the books and records of the business and are true and correct to the best of my knowledge.

_____	_____
Signature of Preparer	Date
_____	_____
Signature of Taxpayer	Date

Please remember: Please mail this form and a complete copy of the Illinois Department of Revenue Form ST-1 (state sales tax return) for the corresponding month and payment to the address listed below.

Please return the completed form to:
Village of Oswego
Attn: Finance Department
100 Parkers Mill, Oswego, IL 60543



Food and Beverage Tax

Frequently Asked Questions

What is the tax?

The Village of Oswego Food and Beverage Tax is a 1% tax on the purchase price of food, alcoholic liquor, and non-alcoholic beverages for immediate consumption.

When will this tax take effect?

October 1, 2017. (Taxes from October sales are due by November 30th)

Where are these items sold?

Any establishment licensed under "Title 3 Chapter 7 Liquor Control" of the Village of Oswego Municipal Code with respect to the sale of liquor. Additionally:

- Restaurant or eating place, drive-in restaurant, fast food outlet
- Cafeteria, cafe, lunch counter, delicatessen, sandwich shop, coffee shop, buffet
- Soft drink parlor, ice cream parlor, tearoom
- Inn, hotel or motel
- Grocery 'eat-in' and prepared take-out
- Banquet facilities, catering facilities & services
- Bakeries and confectioners
- Movie theatres, bowling alleys, billiards hall, golf course, tennis club, fitness clubs
- Convenience store/gas station 'take-out'
- Ice Cream and Food trucks, Festival vendors

On what sales must I collect and pay the Food and Beverage Tax?

You must collect and pay the Food and Beverage Tax if you make retail sales of prepared food and non-alcoholic drinks that have been prepared for immediate consumption, whether on or off the premises. The tax will also be collected on alcoholic beverages that have been prepared for immediate consumption at restaurants but not packaged liquor for consumption off premises. Examples of taxable sales include but are not limited to:

- All products served in restaurants, carry out orders, delivery orders
- All restaurant style products sold by a grocery store or other places of eating, such as prepared chicken, ice cream cones or hot soup.
- All restaurant style products at convenience stores, such as food items selected under a heat lamp.
- A can or bottle of beer, a mixed drink, or a dispensed soft drink served to a diner in a restaurant or to a patron in a bar/tavern.

- Brewed coffee, fountain drinks or other beverages prepared for immediate consumption on or off premises in a grocery store or convenience store.

Are there any “Prepared Food and Beverage Facilities” exempt from the tax?

This tax is not imposed on the following:

- Vending machines
- Daycare centers and nursing homes providing food and beverages in a contractual agreement.
- Other facilities of not-for-profit associations or corporations.
- Complimentary food and beverage with a service.

What transactions are exempt from the Food and Beverage Tax?

Products that are prepared off-site in packages ready for retail sale and not for immediate consumption. Examples of products that are exempt from the Food and Beverage Tax include, but are not limited to:

- Pre-packed pizzas or other frozen food products sold in a grocery store or convenience store.
- A can of soda, six-pack of beer, and wine from a cooler or convenience store.
- General grocery items such as bread, milk, and eggs that are in their original packaging and not prepared for immediate consumption.
- Items **sold** by a non-profit group (Provided a copy of the group’s sales tax exemption letter issued by the Illinois Department of Revenue is filed with the Village of Oswego Finance Director). May include: Government entities, hospitals and medical treatment facilities

Do I have to register my business as a prepared food facility subject to the tax?

Yes. Every owner and operator of any prepared food facility must register as a retailer before opening for business. This is a one-time registration that will remain effective unless there are changes of business ownership, management or location.

Who is going to pay the businesses for administering this tax?

The Village will apply a 1.0% discount to all businesses which pay the tax collections on time. *The returns and tax payments shall be due and owing as of the last day of the succeeding month following the month covered by said return (i.e. taxes from October sales are due by November 30th).* This discount will serve as a service fee to reimburse businesses for expenses incurred in keeping of records, data, billing, preparing and filing returns and submitting data to the Village.

Who is liable for payment?

The ultimate incidence and liability for payment of the tax is borne by the purchaser of prepared food at a prepared food facility. However, the owner and operator of each prepared food facility has the duty to collect, secure and account for the tax at the time of purchase. Any prepared food facility found to be violating or refusing to comply with the tax is subject to penalties and will not be released from the payment of the tax.

Is gratuity to be included in the cost of the meal?

No. The tax is paid on purchase price. Purchase price does not include amounts paid as gratuities for the employees.

How will this tax be applied to a food or beverage purchase?

Example: \$150 dinner & drinks, customer presents a 33% off coupon

Gross	\$150.00
Less: Discounts	<u>- 50.00</u>
Equals: Purchase Price	\$100.00
Add: Sales Tax (8.50%)	+ 8.50
Add: Food & Beverage Tax (1%)	<u>+ 1.00</u>
Equals: Total Sale	\$109.50
Add: Gratuity (<i>for illustrative purposes</i>)	<u>+ 20.00</u>
Equals: Total Customer Payment	\$129.50

How do I show this tax on my retail receipts?

You may either separately state this tax, or state this tax in combination with other taxes on the receipts you give your customers.

What form must I use to report the Food and Beverage Tax?

The Village tax packet includes a copy of the tax return form. A fillable Food and Beverage Tax Return form is also available on Village of Oswego's website.

Where do I file my return?

You should mail or deliver your sworn Food and Beverage Tax Return and payment to:

Village of Oswego

Attn: Finance

100 Parkers Mill

Oswego, Illinois 60543

When is my monthly Food and Beverage Tax Return and tax payment due?

The returns and tax payments shall be due and owing as of the last day of the succeeding month following the month covered by said return (i.e. taxes from October sales are due by November 30th). The sworn food and beverage tax returns must also be accompanied with a copy of the Form ST-1 filed with the Illinois Department of Revenue covering the same reporting period.

How will payment be submitted?

Food & Beverage Tax payments will be submitted to the Village by check, money order, or cash on a monthly basis along with the Food and Beverage Tax form, plus additional ST1 documents (State tax filing form).

How do I file if I have more than one site?

If you make retail sales from more than one site you must file a separate Food and Beverage Tax Return for each site.

Must I file the Food and Beverage Tax Return even if I have no sales to report?

Yes. You must file a signed return form for each monthly reporting period regardless of whether or not there are receipts to report. You may file a "zero" return.

What if I do not file and pay by the due date?

If a tax return is not filed by the due date, a late filing penalty of five percent (5.0%) of the amount of tax shall be imposed.

Do caterers have to pay the Food and Beverage Tax?

Yes. Catering for all events held within the Village limits is subject to the Food and Beverage Tax, regardless of where the caterer's place of business is located. Events catered by Village of Oswego caterers OUTSIDE the Village limits are not subject to the tax. Events inside the Village limits are subject to the tax, even if the caterer's location is outside of Village of Oswego. The tax does not apply to goods associated with the event, such as linens, china, etc. if those items are distinctly priced separately in the event contract.

When a caterer has a dinner at a not-for-profit facility, is the Food and Beverage Tax charged on the meal?

Yes. Catering for all events held in the Village is subject to the Food and Beverage Tax, regardless of where the caterer's place of business is located. However, if the event is sponsored by and is an event of the not-for-profit agency, and the not-for-profit agency is sales tax exempt, then the "Food and Beverage" tax does not apply.

What other communities impose a Food and Beverage Tax?

Numerous communities throughout the State of Illinois impose a Food and Beverage Tax, typically at a rate between 1-2%. Communities proximate to the Village of Oswego with a Food and Beverage Tax include: Aurora (1.75%) and Naperville (1.0%).

If I have questions, who should I contact?

Please call Kathy Schiltz, Finance Department at 630-551-2346 or kschiltz@oswegoil.org.

Please note the information above may change without notice.

VILLAGE OF OSWEGO
KENDALL AND WILL COUNTY, ILLINOIS

ORDINANCE NO. 17 - 52

**AN ORDINANCE ADDING TITLE 3 CHAPTER 36 TO THE CODE OF ORDINANCES FOR
THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS**

(Food & Beverage Tax)

**PASSED BY THE VILLAGE BOARD
OF THE VILLAGE OF OSWEGO**

This 5th day of September 2017

Published in pamphlet form by authority of the President and Board of Trustees
of the Village of Oswego on September 6, 2017.

ORDINANCE NO. 17 - 52

**AN ORDINANCE ADDING TITLE 3 CHAPTER 36 TO THE CODE OF ORDINANCES FOR
THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS**

(Food & Beverage Tax)

WHEREAS, the Village of Oswego (“Village”) has a population of more than 25,000 and is therefore a “Home Rule Unit” under the 1970 Illinois Constitution; and

WHEREAS, the Illinois Constitution of 1970 provides that a Home Rule Unit may exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals and welfare; to license, to tax; and to incur debt; and

WHEREAS, the Village has in full force and effect a codified set of those ordinances of the Village which are of a general and permanent nature, which said codified set is known and designated as the Village Code of the Village of Oswego, as amended; and

WHEREAS, the Village Board finds it necessary and proper to amend said Code as follows, which this Board finds is in the best interests of the Village of Oswego.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS IN THE EXERCISE OF THEIR HOME RULE, STATUTORY AND OTHER POWERS, as follows:

Section 1: That provisions of Sections 3-36-1 through 3-36-10 of the Village Code are hereby added substantially in the form attached as Exhibit “A”.

Section 2: SEVERABILITY.

This ordinance and every provision thereof shall be considered severable. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

Section 3: REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: EFFECTIVE DATE.

This Ordinance shall be in full force and effect immediately upon its passage, approval and Publication in pamphlet form which is hereby authorized, as provided by law.

PASSED by the Board of Trustees of the Village of Oswego, Kendall and Will Counties, Illinois this 5th day of September, 2017.

RYAN KAUFFMAN	<u>AYE</u>	LUIS PEREZ	<u>AYE</u>
KARIN MCCARTHY-LANGE	<u>AYE</u>	JUDY SOLLINGER	<u>AYE</u>
PAM PARR	<u>AYE</u>	JOE WEST	<u>AYE</u>

APPROVED by me, Gail E. Johnson, as Village President of Board of Trustees of the Village of Oswego, Kendall and Will Counties, Illinois this 5th day of September 2017.


GAIL E. JOHNSON, VILLAGE PRESIDENT


TINA TOUCHETTE, VILLAGE CLERK

STATE OF ILLINOIS)
)
COUNTIES OF KENDALL)
AND WILL

CLERK'S CERTIFICATE
(ORDINANCE)

I, Tina Touchette, the duly qualified and acting Village Clerk of the Village of Oswego, Kendall and Will County, Illinois, do hereby certify that I am the keeper of its books and records and that the attached hereto is a true and correct copy of an Ordinance entitled:

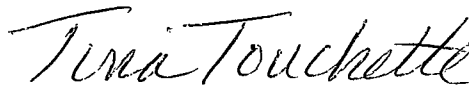
AN ORDINANCE ADDING TITLE 3 CHAPTER 36 TO THE CODE OF ORDINANCES FOR THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS

(Food & Beverage Tax)

which Ordinance was duly adopted by said Board of Trustees at a regular meeting held on the 5th day of September 2017, approved by the Village President on the 5th day of September 2017 and thereafter published in pamphlet form.

I do further certify, in my official capacity, that a quorum of said Board of Trustees was present at said meeting and that the Board complied with all requirements of the Illinois Open Meetings Act.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of September, 2017.



Tina Touchette, Village Clerk
Village of Oswego



CHAPTER 36**FOOD & BEVERAGE TAX****3-36-1: DEFINITIONS****3-36-2 TAX IMPOSED****3-36-3 COLLECTION OF TAX BY RETAILER****3-36-4 BOOKS AND RECORDS****3-36-5 FILING OF RETURN****3-36-6 AMENDMENT TO FOOD AND BEVERAGE TAX RETURNS****3-36-7 LATE PAYMENT PENALTY****3-36-8 TRANSMITTAL OF EXCESS TAX COLLECTIONS****3-36-9 AGENT DESIGNATION****3-36-10 VIOLATIONS****3-36-1: DEFINITIONS:**

For purposes of this chapter, the following words and phrases shall have the following meanings:

ALCOHOLIC LIQUOR: Any alcohol, spirits, wine, or beer sold at retail for consumption on the premises where sold.

FOOD & BEVERAGE: Any and all material or commodities, whether solid, semisolid, or liquid (including both alcoholic and nonalcoholic liquid) used or intended to be used for human consumption, for enjoyment or nourishment of the human body.

PURCHASE AT RETAIL: To obtain food, beverages and alcoholic liquor for use or consumption in exchange for a consideration, whether in the form of money, credits, barter or any other nature, and not for resale.

RETAILER: A person who sells or offers for sale food, beverages, and alcoholic liquor for use or consumption and not for resale at a Retail Food Facility or Retail Liquor Facility. Includes an individual, corporation, partnership, limited partnership, or an officer or employee of any such entity, or such officer, employee or member is performing the act in respect of which any violation occurs.

RETAIL FOOD FACILITY: Includes any place at which food items are served and /or prepared where said food items are intended to be, or are permitted to be, consumed on the premises, including , but not limited to those establishments commonly called an inn, restaurant, eating place, drive-in, restaurant, bakery, buffet, cafeteria, cafe, lunch counter, fast food outlet, catering

service, coffee shop, diner, sandwich shop, soda fountain, tavern, bar, cocktail lounge, soft drink parlor, ice cream parlor, tea room, delicatessen, movie theatre, mobile food or beverage or ice cream vehicle, hotel, motel, or club, where a facility only partially intended to permit on-site consumption of food (such as a grocery store with a prepared food service area), only that portion of the facility selling prepared food shall be considered a Retail Food Facility.

Retail Food Facilities shall not include coin operated automatic food item dispensing machines, confectionary stores, churches, public or private schools, boarding houses, hospitals, day care centers, nursing homes, retirement centers or similar residential care facilities or programs for the central preparation of meals to be delivered and consumed at private residences of invalids or the elderly nor to facilities operated by not-for-profit associations or corporations.

RETAIL LIQUOR FACILITY: Any establishment licensed under Title 3, Chapter 7 of this code with respect to the sale of liquor where the liquor sold is intended to be consumed on the premises.

3-36-2 TAX IMPOSED:

Commencing on October 1, 2017, a tax, in addition to any and all other taxes is hereby levied and imposed, upon the privilege of the retail purchase of Alcoholic Liquor, Food or Beverages at any Retail Food Facility or Retail Liquor Facility, as herein defined, within the Village at the rate of one percent (1.0%) of the purchase price of such Alcoholic Liquor, Food or Beverage, the ultimate incidence of and liability for payment of which shall be borne by the purchaser thereof.

3-36-3 COLLECTION OF TAX(ES) BY RETAILER:

Each Retailer within the Village shall jointly and severally have the duty to collect and account for said tax(es) from each purchaser at the time that the consideration for such purchase is paid.

3-36-4 BOOKS AND RECORDS:

Each Retailer within the Village shall jointly and severally have the duty to maintain complete and accurate books, records and accounts, showing the gross receipts for sales of food and beverage and alcoholic liquor and the taxes collected each day pursuant to the food and beverage tax, which shall be made available in the Village for examination and audit in conformance with the Village Local Tax Collection Ordinance.

3-36-5 FILING OF RETURN:

The owner and the operator of each Retail Food Facility and each Retail Liquor Facility within the Village shall jointly and severally have the duty to cause to be filed a sworn return(s) with the Finance Director for each Retail Facility located in the Village. Said return shall be prepared and submitted on forms prescribed by the Village. Said return shall be filed by the filing date or postmarked the filing date (either of which shall constitute timely payment), and at the same time intervals and frequencies as the Retailers' Occupational Tax return, form ST-1, is due to be filed with the Illinois Department of Revenue. Said return shall also be accompanied by payment to

the Village of all taxes imposed by this Section which are due and owing for the period covered by said return, except that one percent (1%) of the amount due may be deducted if payment is made in a timely manner. Said return shall also be accompanied with a copy of the return filed with the Illinois Department of Revenue covering the same reporting period.

(A) Any Retailer participating in community festivals, such as, but not limited to, Wine on the Fox, PrairieFest, and Beats & Eats, must file a sworn return and pay the taxes due on the last day of participation at the event. Alternatively a Retailer at such event may request an extension to file a sworn return, but pay a good faith estimate of the taxes due on the last day of participation at the event.

1. Any such extension may only be granted for up to ninety (90) days. On or before the last day of the extension, a final sworn return must be filed by the Retailer with the Village which reflects actual taxes due. At the time the final sworn return is filed, the Retailer shall pay the balance of the taxes due, if any. In the event of overpayment, a refund shall be sent to the Retailer by the Village.
2. This Section will not apply to any Retailer who also maintains a Retail Food Facility or Retail Liquor Facility in the Village of Oswego and files returns in accordance with this Section.

3-36-6 AMENDMENT TO FOOD AND BEVERAGE TAX RETURNS:

In the event the Retailer which has made payment of any food and beverage tax to the Village and believes that said payment was in excess of what was legally required to be paid, that party shall have a period of one year from the date of payment to amend its Food and Beverage Tax returns. Upon confirmation of overpayment, the Village shall process said amendment and repay any excess amount paid to the Village for any fees collected within one year of the request being made.

3-36-7 LATE PAYMENT PENALTY:

If any tax imposed herein is not paid when due, a late payment penalty equal to five percent (5%) of the unpaid tax shall be added for each month, or any portion thereof, that such tax remains underpaid and the total of such late payment penalty shall be paid along with the tax imposed herein. In addition to the five percent (5%) penalty imposed above, any Retailer participating in community festivals whose tax (es) is not timely filed or paid, will be denied necessary permits to participate in any future community festivals.

3-36-8 TRANSMITTAL OF EXCESS TAX COLLECTIONS:

If any person collects an amount upon a sale not subject to the tax imposed herein, but which amount is purported to be the collection of said tax, or if a person collects an amount upon a sale greater than the amount of the tax so imposed herein and does not for any reason return the same

to the purchaser who paid the same before filing the return for the period in which such occurred, said person shall account for and pay over those amounts to the Village along with the tax properly collected.

3-36-9 AGENT DESIGNATION:

Each and every Retailer within the Village of Oswego shall designate an individual, either by name or job title, to receive any written communication from the Village regarding the food and beverage tax. Each person so designated shall be employed at a facility located within the Village of Oswego and for purposes of this Section may be referred to as "agent". Each owner and operator of each facility may additionally designate an individual, either by name or job title, outside of the corporate limits of the Village of Oswego to receive the same information or inquiries provided to the person so designated within the Village. It shall be the obligation of each owner or operator of the facility to notify the Village in writing via certified mail of any change of person so designated within ten (10) days of any change.

3-36-10 VIOLATIONS:

Any owner or operator found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Section shall be punished, upon conviction thereof, by a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for the first offense, and not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for the second and each subsequent offense in any 180-day period. A separate and distinct offense shall be deemed committed each day upon which said violation shall continue.

VILLAGE OF OSWEGO
KENDALL AND WILL COUNTY, ILLINOIS

ORDINANCE NO. 17 - 49

**AN ORDINANCE ADDING TITLE 3 CHAPTER 35 TO THE CODE OF ORDINANCES FOR
THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS**

(Locally Imposed and Administered Tax Rights and Responsibility)

**PASSED BY THE VILLAGE BOARD
OF THE VILLAGE OF OSWEGO**

This 5th day of September 2017

Published in pamphlet form by authority of the President and Board of Trustees
of the Village of Oswego on September 6, 2017.

ORDINANCE NO. 17 - 49

**AN ORDINANCE ADDING TITLE 3 CHAPTER 35 TO THE CODE OF ORDINANCES FOR
THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS**

(Locally Imposed and Administered Tax Rights and Responsibility)

WHEREAS, the Village of Oswego ("Village") has a population of more than 25,000 and is therefore a "Home Rule Unit" under the 1970 Illinois Constitution; and

WHEREAS, the Illinois Constitution of 1970 provides that a Home Rule Unit may exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals and welfare; to license, to tax; and to incur debt; and

WHEREAS, the Village has in full force and effect a codified set of those ordinances of the Village which are of a general and permanent nature, which said codified set is known and designated as the Village Code of the Village of Oswego, as amended; and

WHEREAS, the Village Board finds it necessary and proper to amend said Code as follows, which this Board finds is in the best interests of the Village of Oswego.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS IN THE EXERCISE OF THEIR HOME RULE, STATUTORY AND OTHER POWERS, as follows:

Section 1: That provisions of Sections 3-35-1 through 3-35-16 of the Village Code are hereby added substantially in the form attached as Exhibit "A".

Section 2: SEVERABILITY.

This ordinance and every provision thereof shall be considered severable. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

Section 3: REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: EFFECTIVE DATE.

This Ordinance shall be in full force and effect immediately upon its passage, approval and Publication in pamphlet form which is hereby authorized, as provided by law.

PASSED by the Board of Trustees of the Village of Oswego, Kendall and Will Counties, Illinois this 5th day of September, 2017.

RYAN KAUFFMAN	<u>AYE</u>	LUIS PEREZ	<u>AYE</u>
KARIN MCCARTHY-LANGE	<u>AYE</u>	JUDY SOLLINGER	<u>AYE</u>
PAM PARR	<u>AYE</u>	JOE WEST	<u>AYE</u>

APPROVED by me, Gail E. Johnson, as Village President of Board of Trustees of the Village of Oswego, Kendall and Will Counties, Illinois this 5th day of September 2017.


GAIL E. JOHNSON, VILLAGE PRESIDENT


TINA TOUCHETTE, VILLAGE CLERK

STATE OF ILLINOIS)
)
COUNTIES OF KENDALL)
AND WILL

SS

CLERK'S CERTIFICATE
(ORDINANCE)

I, Tina Touchette, the duly qualified and acting Village Clerk of the Village of Oswego, Kendall and Will County, Illinois, do hereby certify that I am the keeper of its books and records and that the attached hereto is a true and correct copy of an Ordinance entitled:

AN ORDINANCE ADDING TITLE 3 CHAPTER 35 TO THE CODE OF ORDINANCES FOR THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS

(Locally Imposed and Administered Tax Rights and Responsibility)

which Ordinance was duly adopted by said Board of Trustees at a regular meeting held on the 5th day of September 2017, approved by the Village President on the 5th day of September 2017 and thereafter published in pamphlet form.

I do further certify, in my official capacity, that a quorum of said Board of Trustees was present at said meeting and that the Board complied with all requirements of the Illinois Open Meetings Act.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of September, 2017.



Tina Touchette

Tina Touchette, Village Clerk
Village of Oswego

TITLE 3 CHAPTER 35

LOCALLY IMPOSED AND ADMINISTERED TAX RIGHTS AND RESPONSIBILITY

This ordinance shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Ordinance." The provisions of this chapter shall apply to the village's procedures in connection with all of the village's locally imposed and administered taxes.

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3-35-2 NOTICES

3-35-3 LATE PAYMENT

3-35-4 PAYMENT

3-35-5 CERTAIN CREDIT AND REFUNDS

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3-35-1 DEFINITIONS:

For purposes of this chapter, the following words and phrases shall have the following meanings:

ACT: The "Local Government Taxpayers' Bill of Rights Act."

CORPORATE AUTHORITIES; The Village President and Board of Trustees.

HEARING OFFICER; The Village Administrator or his/her designee.

LOCAL TAX ADMINISTRATOR; The Village Finance Director, 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 subchapter to give full effect to this subchapter. The exercise of such authority by the local tax administrator shall not be inconsistent with this subchapter and the 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.

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 adopted by the village that imposes or has imposed 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.

VILLAGE: The Village Oswego, Illinois.

3-35-2 NOTICES;

(A) Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing, mailed not less than seven calendar days prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator.

(B) The notice shall be sent by the local tax administrator as follows:

1. First class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address, or

2. Personal service or delivery.

3-35-3 LATE PAYMENT;

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

3-35-4 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.

3-35-5 CERTAIN CREDITS AND REFUNDS;

(A) The village shall not refund or credit 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) The statute of limitations on a claim for credit or refund shall be four 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 cancelled check or receipt for the payment;

(d) The taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim;

(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 days of 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 4% 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.

3-35-6 AUDIT PROCEDURE:

(A) Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this subchapter. Each notice of audit shall contain the following information:

1. The tax;

2. The time period of the audit; and

3. A brief description of the books and records to be made available for the auditor.

4. The notice shall clearly state who will be conducting the audit.

(B) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within 30 days after the originally designated audit and during normal business hours.

(C) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than seven days nor more than 30 days from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event the taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within 30 days, approved in writing, that is convenient to the taxpayer and the local tax administrator.

(D) 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.

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

(F) If an audit determines that there has been an overpayment of a locally imposed and administered tax as a result of the audit, the 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.

(G) If an overpayment is discovered which results from the application of some or all of the taxpayer's tax payment to an incorrect local government, then upon request by a unit of local government, the audit information must be given to any unit of local government that may be affected by an overpayment.

(H) If the audit is conducted by a third-party provider, such third-party provider must be provided with written authorization from the local tax administrator to review the books and records of the taxpayer and no contract with the taxpayer may be made until the written authorization is received by the taxpayer.

(I) Upon request by the taxpayer, the auditor must sign a confidentiality agreement with the taxpayer.

(J) Upon completion of the audit, the local tax administrator must provide an audit closure letter to the taxpayer with the result of the audit.

3-35-7 APPEAL:

(A) The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a claim denial, or a notice of claim reduction regarding any tax. The 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; and
4. The obligation of the village during the audit, appeal, refund and collection process.

(B) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within 45 days of receipt of the written notice of the tax determination and assessment.

(C) 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 14 days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) 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.

(E) Upon showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with the 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 60 days after the expiration of the 45 day period.

3-35-8 HEARING:

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing, the local tax administrator shall conduct a hearing regarding any appeal. The taxpayer may request that a hearing officer conduct the hearing rather than the local tax administrator.

(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 14 days.

(C) At the hearing, the local tax administrator/ hearing officer 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 local tax administrator/hearing officer 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.

3-35-9 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. The village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax to be 5% per annum, based on a year of 365 days and the number of days elapsed.

(B) 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% of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of 5% of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling 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 25% of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

3-35-10 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.

3-35-11 INSTALLMENT CONTRACTS:

The village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is 30 days delinquent, the taxpayer shall have 14 working 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 local tax administrator, the installment contract shall be cancelled without further notice to the taxpayer.

3-35-12 STATUTE OF LIMITATIONS:

(A) 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 45 days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

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

(C) If any tax return is not filed or if during any four-year period for which a notice of tax determination or assessment may be issued by the village, the tax paid was less than 75% of the tax due, the statute of limitations shall be six years maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

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

3-35-13 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 1% per month, for all periods prior to the filing of the application but not more than four 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 by the local tax 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 local tax administrator, whichever is longer.

3-35-14 PUBLICATION OF TAX ORDINANCES:

Any locally administered tax 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 ordinances shall be made available to the public upon request at the Village Clerk's office.

3-35-15 REVIEW PROCEDURES:

The local tax administrator shall establish an internal review procedure regarding any liens 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.

3-35-16 APPLICATION:

This subchapter 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 subchapter, this subchapter shall be controlling.



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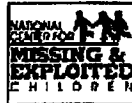
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LOCAL GOVERNMENT

(50 ILCS 45/) Local Government Taxpayers' Bill of Rights Act.

(50 ILCS 45/1)

Sec. 1. Short title. This Act may be cited as the Local Government Taxpayers' Bill of Rights Act.
(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/5)

Sec. 5. Legislative declaration. It is the intent of the General Assembly that this legislation grant various rights and protections to taxpayers and tax collectors with respect to the administration and enforcement of local government tax laws. The provisions of this Act are designed to reduce the burden on both taxpayers and tax collectors by specifically providing that fair and consistent tax processes and procedures be adopted and disseminated to taxpayers at the local level while at the same time preserving local government's full authority to collect taxes lawfully due under their taxing ordinances.

This legislation also provides taxpayers a minimum level of consistency with regard to the assessment and collection of local taxes as they do business in multiple locations within this State.

The General Assembly further finds that tax systems are largely based on voluntary compliance and self-assessment and the development of understandable tax laws. Providing clear tax laws at the local level and providing all necessary due process rights in the collection and enforcement of local tax laws will only serve to improve voluntary compliance and self-assessment of local government taxes.

(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/10)

Sec. 10. Application and home rule preemption. The limitations provided by this Act shall take precedence over any provision of any tax ordinance imposed by a unit of local government, as defined in this Act, in Illinois, including without limitation any tax authorized under Section 8-11-2 of the Illinois Municipal Code.

Consistent with the limitations provided by this Act, a municipality, other than a municipality having a population greater than 1,000,000, may not impose any penalty with respect to a tax authorized by Section 8-11-2 of the Illinois

Municipal Code or with respect to an audit authorized by Section 8-11-2.5 of the Illinois Municipal Code, except as specified in Sections 50, 55, and 60 of this Act.

This Act is a denial and limitation of home rule powers and functions under subsection (g) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 96-1422, eff. 8-3-10.)

(50 ILCS 45/15)

Sec. 15. Definitions. In this Act:

"Locally imposed and administered tax" means a tax imposed by a unit of local government that is collected or administered by a unit of local government and not an agency or Department of the State. A "locally imposed and administered tax" does not include a tax imposed upon real property under the Property Tax Code or fees collected by a unit of local government other than infrastructure maintenance fees.

"Local tax administrator" includes directors of local government departments of revenue or taxation, or other local government officers charged with the administration or collection of a locally imposed and administered tax, including their staffs, employees, or agents to the extent they are authorized by a local tax administrator to act in the local tax administrator's stead.

"Unit of local government" includes a municipality, a county, or a home rule unit of this State, but does not include (i) home rule municipalities with a population greater than 1,000,000 and (ii) home rule counties with a population greater than 3,000,000 that have locally administered departments or bureaus of revenue.

(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/20)

Sec. 20. Responsibilities of units of local government. Each unit of local government shall have the powers and obligations enumerated in the following Sections to protect the rights of the taxpayers.

(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/25)

Sec. 25. Application of payments. Taxpayers have the right to know how tax payments and remittances covered by this Act will be applied to the tax liability owed to units of local government. Each unit of local government must provide, by ordinance, for the order of application of tax payments to tax liability, penalty, and interest, provided that in no case may a payment be applied to penalties due before it is applied to tax or interest. In the event that a unit of local government does not provide for application of payments, any payment or remittance received for a tax period will be applied first to tax for the period, then to interest due for the period, and then to penalties due for the period.

(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/30)

Sec. 30. Statute of limitations. Units of local government have an obligation to review tax returns in a timely manner and issue any determination of tax due as promptly as possible so that taxpayers may make timely corrections of future returns and minimize any interest charges applied to tax underpayments. Each unit of local government must provide appropriate statutes of limitation for the determination and assessment of taxes covered by this Act, provided, however, that a statute of limitations may not exceed the following:

- (1) No notice of determination of tax due or

assessment may be issued more than 4 years after the end of the calendar year for which the return for the period was filed or the end of the calendar year in which the return for the period was due, whichever occurs later.

(2) If any tax return was not filed or if during any 4-year period for which a notice of tax determination or assessment may be issued by the unit of local government the tax paid or remitted was less than 75% of the tax due for that period, the statute of limitations shall be no more than 6 years after the end of the calendar year in which the return for the period was due or the end of the calendar year in which the return for the period was filed, whichever occurs later. In the event that a unit of local government fails to provide a statute of limitations, the maximum statutory period provided in this Section applies.

This Section does not place any limitation on a unit of local government if a fraudulent tax return is filed.

(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/35)

Sec. 35. Audit procedures. Taxpayers have the right to be treated by officers, employees, and agents of the local tax administrator with courtesy, fairness, uniformity, consistency, and common sense. This Section applies to any audit of a tax imposed by a unit of local government other than a municipality having a population greater than 1,000,000, except to the extent otherwise provided in Section 8-11-2.5 of the Illinois Municipal Code. Taxpayers must be notified in writing by the local jurisdiction of a proposed audit of the taxpayer's books and records clearly identifying who will be conducting the audit. For audits being conducted by third-party providers, the local jurisdiction must provide written authorization for the third-party provider to review the books and records of the taxpayer. No contact may be made by the third-party provider until the local-jurisdiction authorization is received by the taxpayer. The notice of audit must specify the tax and time period to be audited and must detail the minimum documentation or books and records to be made available to the auditor. Audits must be held only during reasonable times of the day and, unless impracticable, at times agreed to by the taxpayer. The auditor must sign a confidentiality agreement upon request by the taxpayer. Upon the completion of the audit, the local jurisdiction must issue an audit closure report to the taxpayer with the results of the audit. An auditor who determines that there has been an overpayment of tax during the course of the audit is obligated to identify the overpayment to the taxpayer so that the taxpayer can take the necessary steps to recover the overpayment. If the overpayment is the result of the application of some or all of the taxpayer's tax payment to an incorrect local government entity, then upon request by a unit of local government, the audit information must be given to any unit of local government that may be affected by an overpayment.

(Source: P.A. 96-1422, eff. 8-3-10.)

(50 ILCS 45/40)

Sec. 40. Appeals process. Units of local government have an obligation to provide, by ordinance, a procedure for appealing a determination of tax due or an assessment. Local governments must provide to taxpayers a written statement of rights whenever the local government issues a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The statement must explain the reason for the assessment, the amount of the tax liability proposed, the procedure for appealing the assessment, and the

obligations of the unit of local government during the audit, appeal, refund, and collection process. In no event may a taxpayer be provided a time period less than 45 days after the date the notice was served in which to protest a notice of tax determination or notice of tax liability. Any notice of tax assessment due must be sent by United States registered or certified mail. The unit of local government must also adopt procedures for opening up any closed protest period or extending the protest period upon the showing of reasonable cause by the taxpayer and full payment of the contested tax liability along with interest accrued as of the due date of the tax.

(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/45)

Sec. 45. Interest. Units of local government must provide, by ordinance, for the amount of interest, if any, to be assessed on a late payment, underpayment, or nonpayment of tax.

(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/50)

Sec. 50. Late filing penalties. Late filing penalties may not exceed 5% of the amount of tax required to be shown as due on a return. A late filing penalty may not apply if a failure to file penalty is imposed by the unit of local government. A local tax administrator may determine that the late filing was due to reasonable cause and abate the penalty.

(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/55)

Sec. 55. Late payment penalty. Late payment penalties may not exceed 5% of the tax due and not timely paid or remitted to the unit of local government. This penalty shall not apply if a failure to file penalty is imposed by the unit of local government. A local tax administrator may determine that the late payment was due to reasonable cause and abate the penalty.

(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/60)

Sec. 60. Failure to file penalty. If no return is filed before the issuance of a notice of tax deficiency or of tax liability to the taxpayer, any failure to file penalty may not exceed 25% of the total tax due for the applicable reporting period for which the return was required to have been filed. A local tax administrator may determine that the failure to file a return was due to reasonable cause and abate the penalty.

(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/65)

Sec. 65. Credits and refunds. Units of local government shall provide a procedure for claiming a credit or refund of taxes, interest, or penalties paid in error. No units of local government are required to refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a local government tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. A taxpayer shall not be deemed to have paid a 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. Unless the corporate authorities of a unit of local government expressly adopt a shorter statute of limitations for a particular tax, a statute of limitations on a claim for credit or refund may not be less than 4 years after the end of the calendar year in which payment or remittance in error was made. No unit of local

government shall be required to grant a credit or refund of taxes, interest, or penalties to a person who has not paid or remitted the amounts directly to the unit of local government. Units of local government must provide, by ordinance, a rate of interest for overpayment of tax.
(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/70)

Sec. 70. Installment contracts. If a local government tax ordinance or a local tax administrator allows installment payment agreements for delinquent tax amounts, the local tax administrator may not cancel any installment contract unless the taxpayer fails to pay any amount due on time and fails to cure the delinquency in the allowable time supplied by the local tax administrator, or fails to demonstrate good faith in restructuring any installment plan agreement or contract with the local tax administrator.
(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/75)

Sec. 75. Voluntary disclosure. For any 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 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. 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, provided, however, that if the taxpayer incorrectly determined and underpaid the amount of tax due as provided in this Section, 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 required under this Section must be made within 90 days after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator, whichever is longer, except that 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 local tax administrator, whichever is longer.
(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/80)

Sec. 80. Criminal penalties. Criminal penalties may not be imposed on taxpayers for non-compliance with the provisions of a locally administered tax unless the non-compliance is a result of willful or fraudulent disregard of the local tax laws.
(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/85)

Sec. 85. Review of liens. The local tax administrator must establish an internal review process concerning liens against taxpayers. If the lien is determined to be improper, the local tax administrator must remove the lien at local government's own expense, correct the taxpayer's credit record, and correct any public disclosure of the improperly imposed lien.
(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/90)

Sec. 90. Publication of tax ordinances. Each unit of local government that imposes one or more locally administered taxes by ordinance must publish and make copies of those taxing ordinances readily available to the public upon request. Posting of the tax ordinances on the Internet satisfies the publication requirement of this Section.

(Source: P.A. 91-920, eff. 1-1-01.)

(50 ILCS 45/99)

Sec. 99. Effective date. This Act takes effect on January 1, 2001.

(Source: P.A. 91-920, eff. 1-1-01.)

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