

CHAPTER 5

TAX RIGHTS AND REPOSNSIBILITIES

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2-5-1: **TITLE:** This chapter shall be known as, and may be cited as, the *LOCALLY IMPOSED AND ADMINISTRERED TAX RIGHTS AND RESPONSIBILITY ORDINANCE*. (2002 Code)

2-5-2: **SCOPE; APPLICATION OF PROVISIONS:**

- A. Scope: The provisions of this chapter shall apply to the Village's procedures in connection with the entire Village locally imposed and administered taxes.
- B. Application of Provisions; Conflicting Provisions: This chapter 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 chapter, this chapter shall be controlling. (2002 Code)

2-5-3: **DEFINITIONS:** Certain words or terms herein shall have the meanings ascribed to them as follows:

- ACT: The “local government taxpayers’ bill of rights act¹.”
- BOARD OF TRUSTEES: The Village of Elizabeth’s President and Board of Trustees.
- LOCAL TAX ADMINISTRATOR: The Village of Elizabeth 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 OR TAX: Each tax imposed the Village of Elizabeth that is collected or administered by the Village of Elizabeth which is not an agency or department of the state. It does not include any taxes imposed upon real property under the Property Tax Code² or fees collected by the Village of Elizabeth 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 tax.
- TAX ORDINANCE: Each ordinance adopted by the Village that imposes any locally imposed and administered tax.

¹ 50 ILCS 45/1 et seq.

² 35 ILCS 200/1-1 et seq.

TAX PAYER: 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 of Elizabeth, an Illinois municipal corporation. (2002 Code)

2-5-4: **NOTICE REQUIREMENTS:** 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 addresses; or
- B. Personal service or delivery. (2002 Code)

2-5-5: **DELIQUENT NOTICES, PAYMENTS, REMITTANCES OR OTHER FILINGS:** 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. postmark dated on or before the due date, properly addressed to the Village with adequate postage prepaid. (2002 Code)

2-5-6: **DISPOSITION OF REVENUES:** Any payment or remittance received for a tax period shall be applied in the following order: (a) first to the tax due date for the applicable period; (b) second to the interest due date for the applicable period; and (c) third to the penalty for the applicable period. (2002 Code)

2-5-7: **CERTAIN CREDITS AND REFUNDS:**

- A. **Written Protest Required:** 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 invalid 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. Statute of Limitations: 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 Village 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. Procedure: 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 administrator 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 eight percent (8%) 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. (2002 Code)

2-5-8: **AUDIT PROCEDURE:**

A. Notice of Requirements: Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this chapter. Each notice of audit shall contain the following:

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.

B. Time for Conducting Audit:

1. Any audit shall be conducted during normal business hours, and if the date and time selected by the Local Tax Administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within thirty (30) days after the originally designated audit and during normal business hours.
2. The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than seven (7) days nor more than thirty (30) days from the date of the notice is given, unless the taxpayer and the Local Tax Administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the thirty (30) days, approved in writing that is convenient to the taxpayer and the Local Tax Administrator.

C. Taxpayer's Book and Records:

1. 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 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.
2. 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.

D. Overpayments: 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.

E. Payment to Improper Entity: In the event a tax payment was submitted to the incorrect local governmental entity, the Local Tax Administrator shall notify the local government entity imposing such tax. (2002 Code)

2-5-9: **APPEALS:**

A. Contents of Notice regarding Taxes Due: The Local Tax Administrator shall send written notice to a taxpayer upon the Local Tax Administrator's issuance of a protest able notice of tax due, a bill, a claim denial, or a notice to 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 obligations of the Village during the audit, appeal, refund and collection process.

- B. Request for Hearing: A taxpayer who receives written notice from the Local Tax Administrator of a determination of tax due or assessment may file with the Local Tax Administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the Local Tax Administrator within forty-five (45) days of receipt of the written notice of the tax determination and assessment.
- C. Hearing Scheduled; Notice: 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.
- D. Time Limit for Filing Hearing Request: 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.
- E. Reopening, Extension of Hearing Request: 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.
- F. Conduct of Hearing; Decision:
1. Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under this section, the Local Tax Administrator shall conduct a hearing regarding any appeal. 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.
 2. At the hearing, the Local Tax Administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence to judicial proceedings shall not apply.

3. At the conclusion of the hearing, the Local Tax Administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written notice. (2002 Code)

2-5-10: **PAYMENT REQUIRED; INTEREST AND PENALTIES:**

- A. Time for Payment: 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.
- B. 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 five percent (5%) per annum, based on a year of three hundred sixty five days and the number of days elapsed.
- C. 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 five percent (5%) of the amount of tax required to be shown as due on a return shall be imposed, and a late payment penalty of five percent (5%) of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling Tax Ordinance and prior to the Village issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to twenty five percent (25%) of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.
- D. Abatement of Penalties: 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. (2002 Code)

- 2-5-11: **INSTALLMENT CONTRACTS:** The Village may enter into an under installment contract with the taxpayer for the payment of taxes under the controlling Tax Ordinance. The Local Tax Administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the Local Tax Administrator that the payment is thirty (30) days delinquent, the taxpayer shall have fourteen (14) days to cure any delinquency. If the taxpayer fails to cure the delinquency within the fourteen (14) day period or files to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer. (2002 Code)

2-5-12: 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 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.
- B. No determination of tax due and owing may be issued more than two (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.
- C. 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, the Statute of Limitations shall be six (6) years maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.
- D. The Statute of Limitations shall not apply if a fraudulent tax return was filed by the taxpayer. (2002 Code)

2-5-13: 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. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case, the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than ninety (90) days after the filing of the voluntary disclosure application or the date agreed to by the Local Tax Administrator. However,

any additional amounts owed as a result of an underpayment or 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. (2002 Code)

- 2-5-14: **PUBLICATION OF TAX ORDINANCES; COPIES:** 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. (2002 Code)
- 2-5-15: **REVIEW OF LIENS:** 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 Village's expense;
 - B. Correct the taxpayer's credit record; and
 - C. Correct any public disclosure of the improperly imposed lien. (2002 Code)