

CHAPTER 36

TAXATION

ARTICLE I – GENERALLY

36-1-1 **CORPORATE RATE.** The maximum rate for general corporate purposes of the Village be and the same is hereby established at a rate of **.25%**. (See 65 ILCS Sec. 5/8-3-1)

36-1-2 **POLICE TAX.** The maximum rate for police protection purposes of the Village be and the same is hereby established at a rate of **.075%**. (See 65 ILCS Sec. 5/11-1-3)

36-1-3 **AUDIT TAX.** The Village Board may levy a "Municipal Auditing Tax" upon all taxable property in the Village which will produce an amount which will equal the cost of all auditing for the Village. (See 65 ILCS Sec. 5/8-8-8)

36-1-4 **F.I.C.A. TAX.** The Village Board may levy a tax upon all taxable property in the Village at whatever rate is necessary to participate in the federal Social Security System. (See 40 ILCS Sec. 5/21-101 et seq.)

36-1-5 **GENERAL LIABILITY.** The Village Board may levy a tax upon all taxable property in the Village at whatever rate is necessary to purchase general liability insurance for the Village.

36-1-6 **LIBRARY TAX.** The maximum tax for Library purposes, be and the same is hereby established at a rate of **.15%**. (See 75 ILCS Sec. 5/3-1 and 5/3-4)

36-1-7 **GARBAGE TAX.** The maximum tax for garbage collection purposes, be and the same is hereby established at a rate of **.20%**. (See 65 ILCS Sec. 5/11-19-4)

36-1-8 **WORKMEN'S COMPENSATION.** The maximum tax for Worker's Compensation and Occupational Diseases Claims purposes, be and the same is hereby established at a rate to pay for legal services, purchase insurance, purchase claim services, pay for judgments and settlements. (See 745 ILCS Sec. 10/9-107)

36-1-9 **PUBLIC PARKS TAX.** The maximum tax for Public Park purposes, be and the same is hereby established at a rate of **.075%**. (See 65 ILCS Sec. 5/11-98-1)

36-1-10 **STREET AND BRIDGE.** The maximum tax for Street and Bridge purposes, be and the same is hereby established at a rate of **.06%**. (See **65 ILCS Sec. 5/11-81-1** and **5/11-81-2**)

ARTICLE II - TAXPAYERS' RIGHTS CODE

36-2-1 **TITLE.** This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

36-2-2 **SCOPE.** The provisions of this Code shall apply to the Village's procedures in connection with all of the Village's locally imposed and administered taxes.

36-2-3 **DEFINITIONS.** Certain words or terms herein shall have the meaning ascribed to them as follows:

(A) **Act.** "Act" means the "Local Government Taxpayers' Bill of Rights Act".

(B) **Corporate Authorities.** "Corporate Authorities" means the Village's President and Board of Trustees.

(C) **Locally Imposed and Administered Tax or "Tax".** "Locally Imposed and Administered Tax" or "Tax" means 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.

(D) **Local Tax Administrator.** "Local Tax Administrator", the Village's Treasurer, 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 Code to give full effect to this Code. The exercise of such authority by the local tax administrator shall not be inconsistent with this Code and the Act.

(E) **Village.** "Village" means the Village of St. Jacob, Illinois.

(F) **Notice.** "Notice" means each audit notice, collection notice or other similar notice or communication in connection with each of the Village's locally imposed and administered taxes.

(G) **Tax Ordinance.** "Tax Ordinance" means each ordinance adopted by the Village that imposes any locally imposed and administered tax.

(H) **Taxpayer.** "Taxpayer" means 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.

36-2-4 **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.

36-2-5 **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. postmark dated on or before the due date, properly addressed to the Village, with adequate postage prepaid.

36-2-6 **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.

36-2-7 **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) The statute of limitations on a claim for credit or refund shall be **four (4)** or less 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; 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 **six percent (6%)** 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.

36-2-8 **AUDIT PROCEDURE.** Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Code.

(A) 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.

(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 **thirty (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 (7) days** nor more than **thirty (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 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.

(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 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.

(G) In the event a tax payment was submitted to the incorrect local governmental entity, the local tax administrator shall notify the local governmental entity imposing such tax.

36-2-9 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 bill, 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 obligations 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 **forty-five (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 **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) 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) 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.

36-2-10 HEARING.

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 36-2-9**, above, the local tax administrator 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 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 applicable to judicial proceedings shall not apply.

(D) 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 decision.

36-2-11 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 **six percent (6%)** per annum, based on a year of **three hundred sixty-five (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 **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.

36-2-12 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.

36-2-13 INSTALLMENT CONTRACTS. The Village may 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. Upon written notice by the local tax administrator that the payment is **thirty (30) days** delinquent, the taxpayer shall have **fourteen (14) working days** to cure any delinquency. If the taxpayer fails to cure the delinquency within the **fourteen (14) day** period or fails 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.

36-2-14 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 determination of tax due and owing may be issued more than **four (4) 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.

(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, 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.

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

36-2-15 **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 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.

36-2-16 **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.

36-2-17 **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.

36-2-18 **APPLICATION.** This Ordinance 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 ordinance, this ordinance shall be controlling.

ARTICLE III – GAS UTILITY TAX

36-3-1 **TAX IMPOSED.** A tax imposed on the following acts or privileges:

(A) Persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within the corporate limits of the Village of St. Jacob and not for resale, at the rate of **5.00%** of the gross receipts therefrom. **(Ord. No. 97-391; 05-15-97)**

(B) The tax increase provided for herein shall be based on the gross charges as defined in **Section 36-1-2** of the Village Code, for taxable services billed on or after **June 1, 1997**. **(Ord. No. 97-391; 05-15-97)**

36-3-2 **DEFINITIONS.** For the purpose of the taxes imposed by this Article , the following definitions shall apply:

"Gross Charge". The consideration received for the distribution, supplying, furnishing or selling gas for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction of account of the cost of this service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever. "Gross receipts" shall not include any charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Illinois Public Utilities Act or any other separately stated charge added to customers' bills in respect of any tax or other governmental imposition, or receipts from the Village of St. Jacob for the sale to that Village of any utility products or services. The term "gross receipts" shall also not include that portion of the consideration received for distributing, supplying, furnishing or selling gas to the school districts or units of local government.

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

36-3-3 **BUSINESS EXCLUDED FROM TAX.** No tax is imposed by this Chapter with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the Constitution and Statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing or selling gas be subject to taxation under the provisions of this Chapter for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by **65 ILCS Sec. 5/8-11-1** of the Illinois Municipal Code.

36-3-4 **TO BE IN ADDITION TO STREET USE TAX.** The tax established by this Chapter shall be in addition to the payment of money, or value of products or services furnished to this Village by the taxpayer as compensation for the use of its streets, alleys or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

36-3-5 **TAX RETURN.** Each taxpayer shall make a tax return as required by this Chapter to the Village Treasurer on or before the first day of each month, stating:

- (A) The name of the taxpayer.
- (B) The principal place of business of the taxpayer.
- (C) The gross receipts during the prior month upon the basis of which the tax is imposed.
- (D) Amount of tax.
- (E) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return shall, at the time of making such return, pay to the Village Treasurer, the amount of tax herein imposed. In connection with any return the taxpayer may, if taxpayer so elects, report and pay an amount based upon total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

36-3-6 **OVERPAYMENT OF TAX.** If it shall appear that an amount of tax due under this Article has been paid which was not in fact due, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment. However, no amount erroneously paid more than **three (3) years** prior to the filing of a claim therefore shall be so credited.

36-3-7 **LIMITATION ON ACTIONS TO RECOVER TAX DUE.** No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

(Ord. No. 95-377; 10-05-95)
(See 65 ILCS Sec. 5/8-11-2)

ARTICLE IV - ELECTRIC UTILITY TAX

36-4-1 TAX IMPOSED. A tax is imposed on all persons engaged in the following occupations or privileges:

(A) The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each purchaser:

(1)	First 2,000 KWH	.5274 cents per KWH
(2)	Next 48,000 KWH	.3921 cents per KWH
(3)	Next 50,000 KWH	.3600 cents per KWH
(4)	Next 400,000 KWH	.3500 cents per KWH
(5)	Next 500,000 KWH	.3400 cents per KWH
(6)	Next 2,000,000 KWH	.3200 cents per KWH
(7)	Next 2,000,000 KWH	.3150 cents per KWH
(8)	Next 5,000,000 KWH	.3100 cents per KWH
(9)	Next 10,000,000 KWH	.3050 cents per KWH
(10)	Over 20,000,000 KWH	.3000 cents per KWH

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

36-4-2 TYPE OF CUSTOMER -- RATE EFFECTIVE. Pursuant to **65 ILCS Sec. 5/8-11-2**, the rates set forth in **Section 36-4-1** above shall be effective:

- (A) On **August 1, 1998** for residential customers; and
- (B) On the earlier of:
 - (1) the last bill issued prior to **December 31, 2000**, or
 - (2) the date of the first bill issued pursuant to **220 ILCS Sec. 5/16-104**, for non-residential customers.

36-4-3 EFFECTIVE DATE FOR ARTICLE. The provisions of **Section 36-4-1** shall not be effective until **August 1, 1998**.

36-4-4 EXCEPTIONS. None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privileges may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of the "**Municipal Retailers' Occupation Tax Act**" authorized by Section 8-11-1; nor shall any tax authorized by this Article be imposed upon any person engaged in a business

or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in business of the same class in the Village, whether privately or municipally owned or operated, or exercising the same privilege within the Village.

36-4-5 **ADDITIONAL TAXES.** Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

36-4-6 **COLLECTION.** The tax authorized by this Article shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Article and any such tax collected by a person delivering electricity shall constitute a debt owed to the Village by such person delivering the electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to **three percent (3%)** of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the Village in the manner prescribed by the Village. Persons delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the Village the amount of the tax collected pursuant to this Article.

36-4-7 **REPORTS TO VILLAGE.** On or before the last day of each month, each taxpayer shall make a return to the Village for the preceding month stating:

- (A) His name.
- (B) His principal place of business.
- (C) His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
- (D) Amount of tax.
- (E) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

36-4-8 **CREDIT FOR OVER-PAYMENT.** If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment;

provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

36-4-9 **PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided in **Section 1-1-20** of this Code and in addition, shall be liable in a civil action for the amount of tax due.

**(See 65 ILCS Sec. 5/8-11-2)
(Ord. No. 98-414; 06-18-98)**

ARTICLE V - SIMPLIFIED TELECOMMUNICATIONS TAX

36-5-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A) **"Amount Paid"** means the amount charged to the taxpayer's service address in such municipality regardless of where such amount is billed or paid.

(B) **"Department"** means the Illinois Department of Revenue.

(C) **"Gross Charge"** means the amount paid for the act or privilege of originating or receiving telecommunications in such a municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel termination point within a municipality that has imposed a tax under this Article and charges for the portion of the inter-office channels provided within that municipality. Charges for that portion of the inter-office channel connecting **two (2)** or more channel termination points, one or more of which is located within the jurisdictional boundary of such municipality, shall be determined by the retailer by multiplying an amount equal to the total charge for the inter-office channel by a fraction, the numerator of which is the number of channel termination points that are located within the jurisdictional boundary of the municipality and the denominator of which is the total number of channel termination points connected by the inter-office channel. However, "gross charge" shall not include any of the following:

(1) any amounts added to a purchaser's bill because of a charge made pursuant to:

- (a) the tax imposed by this Section,
 - (b) the tax imposed by the Telecommunications Excise Tax Act,
 - (c) the tax imposed by Section 4251 of the Internal Revenue Code,
 - (d) 911 surcharges, or
 - (e) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act.
- (2) charges for a sent collect telecommunication received outside the Village.
- (3) charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement.