

## CHAPTER 37: TAXATION

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## ***AUTOMOBILE RENTING OCCUPATION TAX***

### **§ 37.001 IMPOSITION; RATE.**

A tax is imposed on all persons engaged in the business of renting automobiles in this village at the rate of 1% of the gross receipts from the sales made in the course of the business while this subchapter is in effect, in accordance with the provisions of ILCS Ch. 65, Act 5, § 8-11-7. ('79 Code, § 95.15) (Ord. 1126, passed 1-4-82)

### **§ 37.002 REPORT FILED WITH STATE DEPARTMENT OF REVENUE.**

Every person engaged in the business of renting automobiles in the village shall file all reports to the State Department of Revenue, as required by ILCS Ch. 35, Act 120, § 3. ('79 Code, § 95.16) (Ord. 1126, passed 1-4-82)

**§ 37.003 TAX PAID AT TIME OF REPORT.**

At the time the report is filed, there shall be paid to the State Department of Revenue the amount of tax imposed on account of the renting of automobiles during the preceding month.  
(‘79 Code, § 95.17) (Ord. 1126, passed 1-4-82)

***AUTOMOBILE RENTING USE TAX*****§ 37.015 TAX IMPOSED; RATE.**

A tax is imposed on the privilege of using in this village an automobile which is rented from a renter outside the state and which is titled or registered with an agency of this state's government in this village, at the rate of 1% of the rental price of the automobile while this subchapter is in effect in accordance with the provisions of ILCS Ch. 65, Act 5, § 8-11-8.  
(‘79 Code, § 95.20) (Ord. 1125, passed 1-4-82)

**§ 37.016 COLLECTION AND PAYMENT.**

The tax shall be collected from the persons whose state address for titling or registration purposes is given as being in this village and shall be paid to the State Department of Revenue.  
(‘79 Code, § 95.21) (Ord. 1125, passed 1-4-82)

***HOTEL ACCOMMODATIONS TAX*****§ 37.025 TITLE.**

Pursuant to ILCS Ch. 65, Act 5, § 8-3-14, as amended, this subchapter shall be known and cited as the “Hotel Accommodation Tax Ordinance,” and the tax imposed shall be known and cited as the “Hotel Accommodations Tax.”  
(‘79 Code, § 95.30) (Ord. 1310, passed 12-1-86)

**§ 37.026 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**HOTEL ACCOMMODATIONS.** A room or rooms in any building or structure kept, used, or maintained as, advertised, or held out to the public to be an inn, motel, hotel, apartment hotel, lodging house, dormitory, or place where sleeping, rooming, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals, in which ten or more such accommodations are used or maintained for guests, lodgers, or roomers. **HOTEL ACCOMMODATIONS** does not include an accommodation which a person occupies, or has the right to occupy, as his/her domicile and permanent residence.

**PERSON.** Any natural person, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, for profit, nonprofit, or otherwise. Whenever the term **PERSON** is used in any clause prescribing and imposing a penalty, the term as applied to corporations shall include the officers thereof, and as applied to any other entity, the owners or part-owners thereof.

**TREASURER.** The Treasurer of the Village of Matteson, Cook County, Illinois. ('79 Code, § 95.31) (Ord. 1310, passed 12-1-86)

#### **§ 37.027 TAX IMPOSED.**

There is imposed and shall accrue and be collected a tax as herein provided, upon the rental or leasing of any hotel accommodations in the village at the rate of 5% of the gross rental or leasing charge. ('79 Code, § 95.32) (Ord. 1310, passed 12-1-86; Am. Ord. 1612, passed 11-20-95; Am. Ord. 1905, passed 4-21-2003)

#### **§ 37.028 TAX TO BE BORNE BY LESSEE.**

The ultimate incidence of and liability for payment of the tax shall be borne by the lessee or the tenant of any hotel accommodations. The tax levied by this subchapter shall be in addition to any and all other taxes. It shall be the duty of every owner, manager, or operator of hotel accommodations to secure the tax from the lessee or tenant of the hotel accommodations and pay the tax to the Treasurer, under rules and regulations prescribed by the Treasurer, and as otherwise provided by this subchapter. ('79 Code, § 95.33) (Ord. 1310, passed 12-1-86)

#### **§ 37.029 COLLECTION.**

The tax levied by this subchapter shall be secured by the hotel owner, manager, or operator from the lessee or tenant when collecting the price, charge, or rent to which it applies. Every lessee or tenant shall be given a bill, invoice, receipt, or other statement or memorandum of the price, charge, or rent

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payable upon which the hotel accommodations tax shall be stated, charged, and shown separately. The hotel accommodations tax shall be paid to the Treasurer or the authorized representative of his/her office on a monthly basis. The tax shall be due on or before the 15th day of the succeeding month.

('79 Code, § 95.34) (Ord. 1310, passed 12-1-86)

### **§ 37.030 PAYMENT; PENALTY FOR NONPAYMENT.**

(A) Every owner, manager, or operator of hotel accommodations within the village shall file a sworn tax return on a monthly basis with the Treasurer showing tax receipts received with respect to hotel accommodation space rented or leased during the preceding monthly period, upon forms prescribed by the Treasurer. At the time of filing the tax return, the owner, manager, or operator of hotel accommodations shall pay to the Treasurer all taxes due for the period to which the tax return applies.

(B) If for any reason any tax is not paid when due, a penalty at the rate of 2% per month on the amount of tax which remains unpaid shall be added and collected. Whenever any person shall fail to pay any tax as herein provided upon the request of the Treasurer, the Corporation Counsel shall bring or cause to be brought an action to enforce the payment of the tax in behalf of the village in any court of competent jurisdiction. The cost of the enforcement shall be borne by the owner. ('79 Code, § 95.35) (Ord. 1310, passed 12-1-86) Penalty, see § 95.99

### **§ 37.031 RECORDS.**

Every owner, manager, or operator of hotel accommodations in the village shall keep books and records showing the prices, rents, or charges made or charged, and occupancies taxable under this subchapter. The Treasurer or his/her designate, shall at all reasonable times have full access to all books and records.

('79 Code, § 95.36) (Ord. 1310, passed 12-1-86) Penalty, see § 37.999

### **§ 37.032 SUSPENSION OR REVOCATION OF LICENSES.**

If the Village President, after a hearing held by or for him/her shall find that any person has willfully avoided payment of the tax imposed by this subchapter, he/she may suspend or revoke all village licenses held by the tax evader. The owner, manager, or operator of the hotel accommodations shall have an opportunity to be heard, and the hearing shall not be held less than five days after notice of the time and place of the hearing, addressed to the owner, manager, or operator at his/her last known place of business. The suspension or revocation of any license shall not release or discharge the owner, manager, or operator of hotel accommodations from his/her civil liability for the payment of the tax nor for prosecution of the offense.

('79 Code, § 95.37) (Ord. 1310, passed 12-1-86) Penalty, see § 37.999



**§ 37.033 PROCEEDS.**

All proceeds resulting from the imposition of the tax under this chapter shall be distributed and expended as directed by the village, solely to promote tourism and conventions within the village, or otherwise to attract nonresident overnight visitors to the village. No funds received pursuant to this chapter shall be used to advertise for or otherwise promote new competition in the hotel business. ('79 Code, § 95.38) (Ord. 1310, passed 12-1-86; Am. Ord. 1485, passed 11-18-91)

***MUNICIPAL RETAILERS' OCCUPATION TAX*****§ 37.045 TAX IMPOSED; RATE.**

A tax is imposed on all persons engaged in the business of selling tangible personal property at retail in this municipality at the rate of 1% of the gross receipts from such sales made in the course of such business while this chapter is in effect, in accordance with the provisions of ILCS Ch. 65, Act 5, § 8-11-1. ('79 Code, § 95.05) (Ord. 708, passed 9-2-69)

**§ 37.046 REPORT FILED WITH STATE DEPARTMENT OF REVENUE.**

Every such person engaged in such business in the municipality shall file all reports to the State Department of Revenue, as required by ILCS Ch. 35, Act 120, § 3. ('79 Code, § 95.06) (Ord. 708, passed 9-2-69)

**§ 37.047 TAX PAID AT TIME OF REPORT.**

At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax imposed on account of the receipts from sales of tangible personal property during the preceding month. ('79 Code, § 95.07) (Ord. 708, passed 9-2-69)

**§ 37.048 EXCLUSION INAPPLICABLE.**

The exclusion contained in ILCS Ch. 35, Act 120, §§ 2-5(11) and 2h shall not apply to property within the municipality. ('79 Code, § 95.08) (Ord. 992, passed 12-18-78)

***MUNICIPAL SERVICE OCCUPATION TAX*****§ 37.060 TAX IMPOSED; RATE.**

A tax is imposed on all persons engaged in this municipality in the business of making sales of service at the rate of 1% of the cost price of all tangible personal property transferred by servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service, in accordance with ILCS Ch. 65, Act 5, § 8-11-5. ('79 Code, § 95.01) (Ord. 709, passed 9-2-69)

**§ 37.061 REPORT FILED WITH STATE DEPARTMENT OF REVENUE.**

Every supplier or serviceman required to account for municipal service occupation tax for the benefit of this municipality shall file all reports to the State Department of Revenue, as required by ILCS Ch. 35, Act 115, § 9. ('79 Code, § 95.02) (Ord. 709, passed 9-2-69)

**§ 37.062 TAX PAID AT TIME OF REPORT.**

At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax imposed. ('79 Code, § 95.03) (Ord. 709, passed 9-2-69)

**§ 37.063 EXEMPTION INAPPLICABLE.**

The exemption contained in paragraph (e) of the definition of ***SALE OF SERVICE***, as set forth in ILCS Ch. 35, Act 115, § 2, shall not apply to property within the municipality. ('79 Code, § 95.04) (Ord. 992, passed 12-18-78)

***MUNICIPAL USE TAX*****§ 37.075 TAX IMPOSED; RATE.**

(A) A tax is imposed in accordance with the provisions of ILCS Ch. 65, Act 5, § 8-11-6 on the privilege of using in the municipality any item of tangible personal property which is purchased outside Illinois at retail from a retailer, and which is titled or registered with an agency of Illinois government.

(B) The tax shall be at a rate of 1% of the selling price of the tangible property, with *SELLING PRICE* to have the meaning as defined in ILCS Ch. 35, Act 105, § 2. ('79 Code, § 95.10) (Ord. 860, passed 11-18-74)

#### **§ 37.076 COLLECTION AND PAYMENT.**

The tax shall be collected by the State Department of Revenue for all municipalities imposing the tax, and shall be paid before the title or certificate of registration for the personal property is issued. ('79 Code, § 95.11) (Ord. 860, passed 11-18-74)

### ***EMERGENCY 911 TELEPHONE SYSTEM SURCHARGE***

#### **§ 37.085 SURCHARGE IMPOSED.**

A surcharge is imposed upon all telecommunication carriers engaged in the business of transmitting messages by means of electricity originating within the corporate limits of the village, and terminating within the state for funding of a 911 emergency telephone system. ('79 Code, § 95.40) (Ord. 1375, passed 1-17-89)

#### **§ 37.086 RATE.**

A surcharge is imposed at a rate of \$0.80 per month per in-service network connection, as hereinafter defined. A network connection shall not be deemed to be in service where a subscriber's account is deemed uncollectible by the telecommunication carrier. ('79 Code, § 95.42) (Ord. 1375, passed 1-17-89)

#### **§ 37.087 DEFINITIONS.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***NETWORK CONNECTIONS.*** The number of voice grade communications channels directly between a subscriber and a telecommunications carrier's public switched network without the intervention of any other telecommunications carriers switched network which would be required to carry the subscribers inter premises traffic.

**TELECOMMUNICATIONS CARRIER.** 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 engaged in the business of in transmitting messages by means of electricity.

**TRANSMITTING MESSAGES.** This term shall have the meaning ascribed to the term in ILCS Ch. 65, Act 5, § 8-11-2.  
(‘79 Code, § 95.43) (Ord. 1375, passed 1-17-89)

### **§ 37.088 EXEMPTIONS.**

The Village Clerk shall provide any telecommunication carrier subject to the surcharge with a certified list of those network connections assigned to the municipality to be exempt from imposition of the surcharge. The certified list may be revised by the municipality on 60 days prior written notice provided to the telecommunication carriers.  
(‘79 Code, § 95.44) (Ord. 1375, passed 1-17-89)

### **§ 37.089 IMPLEMENTATION.**

The surcharge shall be imposed on the first day of the month following the expiration of 30 days from the date the Village Clerk certifies to any of the telecommunication carriers who are subject to the surcharge.  
(‘79 Code, § 95.45) (Ord. 1375, passed 1-17-89)

### **§ 37.090 PAYMENT.**

Every telecommunication carrier shall remit to the Village Treasurer the amount of surcharge due and owing for each calendar month within 30 days following expiration of any month to which the surcharge applies, net of any network or other 911 or sophisticated 911 system charge then due the particular telecommunication carrier as shown on an itemized bill.  
(‘79 Code, § 95.46) (Ord. 1375, passed 1-17-89)

### **§ 37.091 REMITTANCE STATEMENT.**

Simultaneously with the remittance subscribed in § 37.090 above, each telecommunication carrier shall make a return to the Village Treasurer for the period to which the remittance applies stating as follows:

- (A) The name of the telecommunication carrier.

(B) The telecommunication carrier's principal place of business.

(C) The number of network connections to which the surcharge applies.

(D) The amount of surcharge due.

(E) Such other reasonable and related information as the corporate authorities may require.  
(‘79 Code, § 95.47) (Ord. 1375, passed 1-17-89)

**§ 37.092 CREDIT.**

If it shall appear that an amount of surcharge has been paid which was not due under the provisions of this subchapter, whether as the result of a mistake of act or an error of law, then such amount shall be credited against any surcharge due, or to become due, under this subchapter from the telecommunication carrier who made the erroneous payments; provided that no amounts erroneously paid more than three years prior to the filing of a claim therefor shall be so credited.  
(‘79 Code, § 95.48) (Ord. 1375, passed 1-17-89)

***LOCALLY IMPOSED AND ADMINISTERED  
TAX RIGHTS AND RESPONSIBILITY PROCEDURES***

**§ 37.105 TITLE.**

This subchapter shall be known as and may be cited as the “Locally Imposed and Administered Tax Rights and Responsibility Subchapter.”  
(Ord. 1787-A, passed 1-2-2001)

**§ 37.106 SCOPE.**

The provisions of this subchapter shall apply to the village’s procedures in connection with all of the village’s locally imposed and administered taxes.  
(Ord. 1787-A, passed 1-2-2001)

**§ 37.107 DEFINITIONS.**

Certain words or terms herein shall have the meaning ascribed to them as follows:

**ACT.** The “Local Government Taxpayers’ Bill of Rights Act.”  
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**CORPORATE AUTHORITIES.** The village's President and Board of Trustees.

**LOCAL TAX ADMINISTRATOR.** The village's Administrator or his or her designee, 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 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. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the village other than infrastructure maintenance fees.

**NOTICE.** Each audit notice, collection notice or other similar notice or communication in connection with each of the village's locally imposed and administered taxes.

**TAX ORDINANCE.** Each ordinance adopted by the village that imposes any locally imposed and administered tax.

**TAXPAYER.** Any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the village.

**VILLAGE.** The Village of Matteson, Cook County, Illinois.  
(Ord. 1787-A, passed 1-2-2001)

### § 37.108 NOTICES.

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. 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 person's last known address; or

(B) Personal service or delivery.  
(Ord. 1787-A, passed 1-2-2001)

**§ 37.109 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 posted prepaid.

(Ord. 1787-A, passed 1-2-2001)

**§ 37.110 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.

(Ord. 1787-A, passed 1-2-2001)

**§ 37.111 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 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 days of the receipt by the local Law 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 6% 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.  
(Ord. 1787-A, passed 1-2-2001)

### **§ 37.112 AUDIT PROCEDURE.**

Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this subchapter.

(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 auditor 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 the 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 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.  
(Ord. 1787-A, passed 1-2-2001)

### **§ 37.113 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 notices 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 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 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 90 days after the expiration of the 45 day period.

(Ord. 1787-A, passed 1-2-2001)

#### **§ 37.114 HEARING.**

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under § 37.113 of this subchapter, 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 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.

(Ord. 1787-A, passed 1-2-2001)

#### **§ 37.115 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 12% 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 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 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 failure to file penalty is imposed by the controlling ordinance.  
(Ord. 1787-A, passed 1-2-2001)

#### **§ 37.116 ABATEMENT.**

The local Tax Administrator shall have the authority to waive or abate any late filing payment, 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.  
(Ord. 1787-A, passed 1-2-2001)

#### **§ 37.117 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 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 working 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.  
(Ord. 1787-A, passed 1-2-2001)

#### **§ 37.118 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 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 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.

(B) 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.

(C) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer. (Ord. 1787-A, passed 1-2-2001)

### **§ 37.119 VOLUNTARY DISCLOSURE.**

For any locally imposed and administered tax for which a taxpayer has not been 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 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 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. (Ord. 1787-A, passed 1-2-2001)

### **§ 37.120 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 (Ord. 1787-A, passed 1-2-2001)

**§ 37.121 REVIEW PROCEDURES.**

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.

(Ord. 1787-A, passed 1-2-2001)

**§ 37.122 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.

(Ord. 1787-A, passed 1-2-2001)

***MUNICIPAL UTILITY TAX ON GAS*****§ 37.125 TAX IMPOSED; RATE.**

A tax is imposed on all persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the village, and not for resale, at the rate of 5% of the gross receipts therefrom.

(Ord. 1907, passed 4-28-2003)

**§ 37.126 EXCEPTIONS.**

No tax is imposed by this subchapter 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, selling or transmitting gas be subject to taxation under the provisions of this subchapter for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by ILCS Ch. 65, Act 5, § 8-11-1.  
(Ord. 1907, passed 4-28-2003)

### § 37.127 ADDITIONAL TAXES.

Such tax shall be in addition to the payment of money, or value of products or services furnished to this municipality 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.  
(Ord. 1907, passed 4-28-2003)

### § 37.128 DEFINITIONS.

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**GROSS RECEIPTS.** The consideration received for distributing, 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 on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever; provided, however, that **GROSS RECEIPTS** shall not include any amounts specifically excluded from the definition of gross receipts in ILCS Ch. 65, Act 5, § 8-11-2(d).

**PERSONS.** Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, municipal corporation, the state or any of its political subdivisions, any state university created by statute, or a receiver, trustee, guardian or other representative appointed by order of any court.  
(Ord. 1907, passed 4-28-2003)

### § 37.129 EFFECTIVE DATE.

This subchapter shall take effect after publication and the tax provided for herein shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the first day of June, 2003.  
(Ord. 1907, passed 4-28-2003)

**§ 37.130 REPORTS TO MUNICIPALITY.**

(A) On or before the last day of July, 2003 each taxpayer shall make a return to the Village Treasurer for the month of June, 2003, stating:

- (1) His name;
- (2) His principal place of business;
- (3) His gross receipts during those months upon the basis of which the tax is imposed;
- (4) Amount of tax;
- (5) Such other reasonable and related information as the corporate authorities may require.

(B) On or before the last day of every month thereafter, each taxpayer shall make a like return to the Village Treasurer for a corresponding one-month period.

(C) The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village Treasurer, 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.

(Ord. 1907, passed 4-28-2003)

**§ 37.131 MISTAKE OR ERROR/CREDIT.**

If it shall appear that an amount of tax has been paid which was not due under the provisions of this subchapter, 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 subchapter from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three years prior to the filing of a claim therefor shall be so credited.

(Ord. 1907, passed 4-28-2003)

**§ 37.132 RECOVERY LIMIT.**

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

(Ord. 1907, passed 4-28-2003)

**§ 37.133 VIOLATION OR FRAUD.**

Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this subchapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$750 and in addition shall be liable in a civil action for the amount of tax due.

(Ord. 1907, passed 4-28-2003)

**§ 37.134 NOTICE TO UTILITY COMPANIES.**

The Village Clerk is hereby directed to send a certified copy of this subchapter to each utility company affected by this subchapter.

(Ord. 1907, passed 4-28-2003)

***MUNICIPAL UTILITY TAX ON ELECTRICITY*****§ 37.135 DEFINITIONS.**

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***PERSON.*** Any natural, individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, municipal corporation, estate or any of its political subdivisions, any state university created by statute, or a receiver, trustee, conservator or other representative appointed by order of the court.

***PERSON MAINTAINING A PLACE OF BUSINESS IN THIS STATE.*** Any person having or maintaining within this state, directly or by a subsidiary or other affiliate, in office, generation, facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent or other representative, operating within the state under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in this state permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in the state.

***PURCHASE AT RETAIL.*** Any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in ILCS Ch. 65, Act 5, § 8-11-2, directly in generation, production, transmission, delivery or sale of electricity.



**PURCHASER.** Any person who uses or consumes within the corporate limits of the village electricity acquired in purchase at retail.

**VILLAGE.** The Village of Matteson.  
(Ord. 1908, passed 4-28-2003; Am. Ord. 1917, passed 6-2-2003; Am. Ord. 1919, passed 6-16-2003)

**§ 37.136 TAX IMPOSED.**

A tax is imposed on all persons engaged in the following occupations or privileges:

(A) (1) The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the municipality at the following rates, calculated on a monthly basis for each purchaser:

- (a) For the first 2,000 kilowatt-hours used or consumed in a month; 0.547 cents per kilowatt-hour;
- (b) For the next 48,000 kilowatt-hours used or consumed in a month; 0.359 cents per kilowatt-hour;
- (c) For the next 50,000 kilowatt-hours used or consumed in a month; 0.323 cents per kilowatt-hour;
- (d) For the next 400,000 kilowatt-hours used or consumed in a month; 0.314 cents per kilowatt-hour;
- (e) For the next 500,000 kilowatt-hours used or consumed in a month; 0.305 cents per kilowatt-hour;
- (f) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.287 cents per kilowatt-hour;
- (g) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.282 cents per kilowatt-hour;
- (h) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.278 cents per kilowatt-hour;
- (i) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.273 cents per kilowatt-hour;

(j) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 0.269 cents per kilowatt-hour.

(2) The tax is in addition to all taxes, fees and other revenue measures imposed by the village in the State of Illinois or any other political subdivision of the state.

(B) Notwithstanding any other provision of this chapter, the tax shall not be imposed if and to the extent that imposition or collection of the tax would violate the Constitution or statutes of the United States or the Constitution of the State of Illinois.

(C) The tax shall be imposed with respect to the use or consumption of electricity by residential and non-residential customers beginning with the first bill issued on or after August 1, 2003. (Ord. 1908, passed 4-28-2003; Am. Ord. 1917, passed 6-2-2003; Am. Ord. 1919, passed 6-16-2003)

### **§ 37.137 EXCEPTIONS.**

None of the taxes authorized by this subchapter may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made 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 this subchapter for those transactions that are or may become subject to taxation under the provisions of the Municipal Retailers' Occupation Tax Act authorized by ILCS Ch. 65, Act 5, § 8-11-1; nor shall any tax authorized by this subchapter be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in a like manner and at the same rate upon all persons engaged in the business of the same class in the municipality, whether privately or municipally owned or operate, or exercising the same privilege within the municipality.

(Ord. 1908, passed 4-28-2003; Am. Ord. 1917, passed 6-2-2003; Am. Ord. 1919, passed 6-16-2003)

### **§ 37.138 ADDITIONAL TAXES.**

Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

(Ord. 1908, passed 4-28-2003; Am. Ord. 1917, passed 6-2-2003; Am. Ord. 1919, passed 6-16-2003)

### **§ 37.139 COLLECTION.**

The tax authorized by this subchapter shall be collected from the purchaser by the person maintaining a place of business in this state who delivers the electricity to the purchaser. Any tax

required to be collected by this chapter, and any tax in fact collected, shall constitute a debt owed to the village by the person delivering the electricity, provided that the person delivering electricity shall be allowed credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax. 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 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 date to the municipality 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 municipality in the manner prescribed by the municipality. Persons delivering electricity who file returns pursuant to this section shall, at the time of filing such return, pay the municipality the amount of the tax collected pursuant to this subchapter.

(Ord. 1908, passed 4-28-2003; Am. Ord. 1917, passed 6-2-2003; Am. Ord. 1919, passed 6-16-2003)

#### **§ 37.140 REPORTS TO MUNICIPALITY.**

(A) On or before the last day of each month, each taxpayer shall make a return to the village for the preceding month stating:

- (1) His name.
- (2) His principal place of business.
- (3) His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
- (4) Amount of tax.
- (5) Such other reasonable and related information as the corporate authorities may require.

(B) 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 for later payments based upon any differences between such billings, and the taxable gross receipts.

(Ord. 1908, passed 4-28-2003; Am. Ord. 1917, passed 6-2-2003; Am. Ord. 1919, passed 6-16-2003)

**§ 37.141 MISTAKE OR ERROR/CREDIT.**

If it shall appear that an amount of tax has been paid which was not due under the provisions of this subchapter, 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 subchapter from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three years prior to the filing of a claim therefor shall be so credited.  
(Ord. 1908, passed 4-28-2003; Am. Ord. 1917, passed 6-2-2003; Am. Ord. 1919, passed 6-16-2003)

**§ 37.142 RECOVERY LIMIT.**

No action to recover any amount of tax due under the provisions of this subchapter shall be commenced more than three years after the due date of such amount.  
(Ord. 1908, passed 4-28-2003; Am. Ord. 1917, passed 6-2-2003; Am. Ord. 1919, passed 6-16-2003)

**§ 37.143 VIOLATION OR FRAUD.**

Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this subchapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$750 and in addition shall be liable in a civil action for the amount of tax due.  
(Ord. 1908, passed 4-28-2003; Am. Ord. 1917, passed 6-2-2003; Am. Ord. 1919, passed 6-16-2003)

**§ 37.144 NOTICE TO UTILITY COMPANIES.**

The Village Clerk is hereby directed to send a certified copy of this subchapter to each utility company affected by this subchapter.  
(Ord. 1908, passed 4-28-2003; Am. Ord. 1917, passed 6-2-2003; Am. Ord. 1919, passed 6-16-2003)

***MUNICIPAL TELECOMMUNICATIONS TAX***

**§ 37.145 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX.**

(A) A simplified municipal telecommunications tax is hereby imposed upon the act or privilege of originating in the municipality or receiving in the municipality intrastate or interstate telecommunications

by a person under the provisions of the Simplified Municipal Telecommunications Tax Act, ILCS Ch. 65, Act 5, § 8-11-17, at a rate of 6% of the gross charges for such telecommunications purchased at retail from a retailer.

(B) The tax hereby imposed shall be collected and enforced by the Department of Revenue of the State of Illinois. The Illinois Department of Revenue shall have full power to administer and enforce the provisions of this subchapter.

(C) This subchapter shall be in full force and effect from and after its passage and approval and publication in pamphlet form as required by law, provided, however, that this section shall take effect for all gross charges billed by telecommunications retailers on and after the first day of July, 2004. The Village Clerk is hereby directed to file a certified copy of this subchapter with the Illinois Department of Revenue prior to March 31, 2004.

(Ord. 1909, passed 4-28-2003; Am. Ord. 1967, passed 3-22-2004)

### ***DEPOSIT AND ALLOCATION OF ALL UTILITY TAX REVENUES***

#### **§ 37.150 DEFINITIONS.**

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***SPECIAL UTILITY TAX REVENUE FUND.*** All deposits contained in said fund, received by the village from the municipal utility tax revenues, as defined in ***UTILITY TAX REVENUES***.

***UTILITY TAX REVENUES.*** Any and all of the revenue received by the village from the taxation of utilities, pursuant to the following municipal tax provisions:

- (1) The municipal tax on gas;
- (2) The municipal tax on electricity; and
- (3) The municipal tax on telecommunications.

***VILLAGE.*** The Village of Matteson, Cook County, Illinois.  
(Ord. 1906, passed 4-28-2003)

**§ 37.151 ESTABLISHING OF SPECIAL FUND.**

The village does hereby establish a Special Utility Tax Revenue Fund to consist solely of funds received by the village from the utility tax revenues. The Village Treasurer, the Village Finance Director and all other village representatives shall immediately take all necessary action to create said special fund.

(Ord. 1906, passed 4-28-2003)

**§ 37.152 ALLOCATION OF SPECIAL UTILITY TAX REVENUE FUND.**

The allocation of all funds in the Special Utility Tax Revenue Fund shall be as follows:

(A) For the fiscal year ending April 30, 2004, all of the revenue deposited in said fund shall be transferred to the village's general fund balance.

(B) For all fiscal years commencing on May 1, 2004, and for all fiscal years thereafter, the allocation of all revenues from said fund shall be as follows:

(1) Thirty-eight percent shall be transferred to a quality of life capital construction fund balance within the general fund account group, including but not limited to the payment of settlement and litigation costs incurred by the village as a defendant in Case No. 98 CH 5500 in the Circuit Court of Cook County, Illinois, and also for all payments authorized by the village for disaster relief contributions; and

(2) Thirty-eight percent shall be transferred to the general fund balance; and

(3) Twenty-four percent shall be transferred to the village's general fund, to subsidize operations accounted under the village's other taxes revenue category.

(Ord. 1906, passed 4-28-2003; Am. Ord. 2055, passed 10-3-2005)

**§ 37.153 REPEALER.**

Notwithstanding any conflicting village ordinances, resolutions or regulations, the allocations as specified and authorized under § 37.151 shall be the only transfer of funds to be made from the Special Utility Tax Revenue Fund.

(Ord. 1906, passed 4-28-2003)

**§ 37.999 PENALTY.**

Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of §§ 37.025 through 37.033, except

when otherwise specifically provided, upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$300 for the first offense and not less than \$200 nor more than \$750 for the second and each subsequent offense in any 180-day period. However, all actions seeking the imposition of fines only shall be filed as quasi-criminal actions subject to the provisions of the Illinois Civil Practice Act (ILCS Ch. 735, Act 5, §§ 1-100 *et seq.*). Repeated offense in excess of three within any 180-day period may also be punishable as a misdemeanor by incarceration for a term not to exceed six months under the procedure set forth in ILCS Ch. 65, Act 5, § 1-2-1.1 and under the provisions of the Illinois Code of Criminal Procedure (ILCS Ch. 725, Act 5, §§ 100-1 *et seq.*). A separate and distinct offense shall be regarded as committed each day upon which each person shall continue any such violations.

(‘79 Code, § 95.99) (Ord. 1310, passed 12-1-86)