



## MOTOR FUEL TAX ACKNOWLEDGEMENT FORM

I hereby acknowledge receipt of the Village of Oswego Motor Fuel Tax Information Packet which contains the following documents:

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

Name of Business: \_\_\_\_\_

Business Address: \_\_\_\_\_

Name of Owner or Officer: \_\_\_\_\_

Date Business Opened: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email (optional): \_\_\_\_\_

Signature of Representative who received packet: \_\_\_\_\_

Date signed: \_\_\_\_\_



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# Motor Fuel Tax Information Packet



*Dan Di Santo,  
Village Administrator*

100 Parkers Mill • Oswego, IL 60543 • (630) 554-2360 • Fax: (630) 551-4854  
Website: <http://www.oswegoil.org>

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September 15, 2017

Dear Oswego Business Owner,

On September 5, 2017 the Village of Oswego implemented a new four cent per gallon (\$0.04) tax on motor fuel purchases; the effective date of the tax is October 1, 2017. You are receiving this letter because the new tax may apply to your business. This new tax will allow Oswego's road maintenance and construction budget to be fully funded, resulting in critical infrastructure investment in the Village.

The decision to implement the new tax was made after nearly a year of discussion on how to deal with significant revenue stagnation in the Village. The revenue issues have several causes, including the new State of Illinois budget that siphons hundreds of thousands of dollars from the Village, flattened sales tax growth due to increase internet sales and changing market trends, level property tax proceeds, and rising public pension costs.

To address these issues, the Village has decreased and limited operating expenses, held staffing well under pre-recession levels despite a growing population, prioritized economic development initiatives, and led Illinois local governments in innovation and shared services initiatives. While these efforts have helped, there still remains a deficiency in our capital improvement plan that must be funded if Oswego is to grow and thrive into the future. As such, the Village concluded that additional revenues were necessary.

Two new revenues were selected to address the budget deficiencies; a one percent (1.0%) food and beverage tax and a four cent (\$0.04) per gallon local motor fuel tax. These taxes were chosen because they are consumption based and therefore have the least impact on Oswego residents. In fact, studies show that 60% of these taxes will be paid by non-Oswego residents.

As we prepare to implement this new tax, we prepared this package of information that contains registration **forms that must be completed by your business, tax return forms, other information regarding the new tax** and a copy of the enacting ordinance. If you have any questions about the application or applicability of the tax, please contact our Finance Director Mark Horton at [mhorton@oswegoil.org](mailto:mhorton@oswegoil.org) or 630-551-2325.

Very Truly Yours,

Dan Di Santo  
Village Administrator



## **INSTRUCTIONS FOR PREPARING THE MOTOR FUEL TAX REGISTRATION FORM**

### **SECTION 1:**

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

### **SECTION 2:**

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

### **SECTION 3:**

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

### **SECTION 4:**

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

### **SECTION 5:**

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

## **INSTRUCTIONS FOR COMPLETING THE MOTOR FUEL TAX RETURN**

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

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

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

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

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



100 Parkers Mill • Oswego, IL. 60543 • (630) 554-3618 • Fax:  
(630) 554-3306  
Website: [http://www.oswegoil.org](http://www.oswego.il.gov)

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## **Application for Certificate of Registration** **Village of Oswego Local Motor Fuel Tax**

This form is to be used by business (registrants) to register with the Village of Oswego for the Local Motor Fuel Tax, in accordance with Title 3, Chapter 36 of the Village of Oswego's Municipal Code.

### **SECTION 1:**

Business name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

### **SECTION 2:**

Local Agent Name and Title: \_\_\_\_\_

### **SECTION 3:**

Corporate Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Telephone/email: \_\_\_\_\_

### **SECTION 4:**

Type of Business: \_\_\_\_\_  
Form of Business: Sole Proprietor Partnership Corporation Other  
FEIN# \_\_\_\_\_ Illinois taxpayer #: \_\_\_\_\_  
Filing Illinois ST-1 frequency: Monthly Quarterly Semi-Annually Other

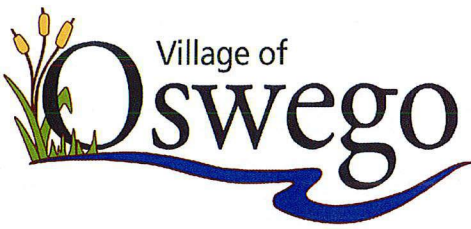
### **SECTION 5:**

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

\_\_\_\_\_  
**Signature of Applicant**

\_\_\_\_\_  
**Date**

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



**VILLAGE OF OSWEGO**  
**MOTOR FUEL TAX RETURN FORM**

Business Name: \_\_\_\_\_  
 Doing Business As \_\_\_\_\_  
 Reporting Period \_\_\_\_\_  
 FEIN: \_\_\_\_\_

- |  |       |  |
|--|-------|--|
| 1. Number of Gallons of Motor Fuel Tax Sold.....                                 | \$    |  |
| 2. Tax Rate per Gallon (4%).....   | x .04 |  |
| 3. Tax Due (Line 1 multiplied by Line 2).....                                    | \$    |  |
| 4. Penalty if paid after the 20 <sup>th</sup> (Multiply Line 3 by 5% (.05))..... | \$    |  |
| 5. Total Tax Due (Line 3 plus Line 4).....                                       | \$    |  |

**Remittance Instructions**

Please remit the amount indicated on line 5 above. Checks should be made payable to the Village of Oswego and sent to the Village at the address shown below. This form and a complete copy of the Illinois Department of Revenue Form ST-1 (state sales tax return) for the corresponding month must accompany your remittance.

The Village must receive your remittance by the 20th of the month following the calendar month when the taxes were collected. If the 20th of the month falls on a Sunday or holiday when the Village Hall is closed, payment must be received by the next business day. However, a payment sent by mail must be postmarked no later than the 20th of the month. If the 20th of the month falls on a Sunday or national holiday when the U.S. Postal Service is closed, the remittance must be postmarked by the next business day.

*Attention: Gallon measurement is required when completing this form. If your records are in liter measurement, multiply the total by the official factor of .2641721 to convert to U.S. gallons.*

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

\_\_\_\_\_  
**Signature of Preparer** \_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature of Taxpayer** \_\_\_\_\_  
**Date**

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

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

**VILLAGE OF OSWEGO  
KENDALL AND WILL COUNTY, ILLINOIS**

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**ORDINANCE NO. 17 - 51**

**AN ORDINANCE ADDING TITLE 3 CHAPTER 37 TO THE CODE OF ORDINANCES FOR  
THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS**

**(Local Motor Fuel Tax)**

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

**This 5<sup>th</sup> day of September 2017**

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

**ORDINANCE NO. 17 - 51**

**AN ORDINANCE ADDING TITLE 3 CHAPTER 37 TO THE CODE OF ORDINANCES FOR  
THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS**

**(Local Motor Fuel Tax)**

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

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

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

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

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

**Section 1:** That provisions of Sections 3-37-1 through 3-37-7 of the Village Code are hereby added substantially in the form attached as Exhibit "A".

**Section 2: SEVERABILITY.**

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

**Section 3: REPEALER.**

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



**Section 4: EFFECTIVE DATE.**

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

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

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

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



GAIL E. JOHNSON, VILLAGE PRESIDENT



TINA TOUCHETTE, VILLAGE CLERK

STATE OF ILLINOIS        )  
                                  )  
COUNTIES OF KENDALL    )  
AND WILL

SS

**CLERK'S CERTIFICATE**  
**(ORDINANCE)**

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

**AN ORDINANCE ADDING TITLE 3 CHAPTER 37 TO THE CODE OF ORDINANCES FOR  
THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS**

**(Local Motor Fuel Tax)**

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

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

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



*Tina Touchette*  
\_\_\_\_\_  
Tina Touchette, Village Clerk  
Village of Oswego

**CHAPTER 37**

**LOCAL MOTOR FUEL TAX**

**3-37-1: DEFINITIONS**

**3-37-2 TAX IMPOSED**

**3-37-3 COLLECTION OF TAX**

**3-37-4 REGISTRATION AND MAINTENANCE OF RECORDS**

**3-37-5 ALLOCATION OF COLLECTIONS**

**3-37-6 LATE PAYMENT PENALTY**

**3-37-7 PENALTY**

**3-37-1: DEFINITIONS:**

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

MOTOR FUEL: All volatile liquids compounded or used for fueling motor vehicles, including gasoline, gasohol, compressed natural gas, propane and diesel fuel.

MOTOR FUEL RETAILER: Any person, firm or corporation engaged in the business of selling Motor Fuel at retail, and not for resale.

**3-37-2 TAX IMPOSED**

Commencing on October 1, 2017, there is hereby imposed and levied a tax upon the retail purchase within the Village of Oswego, of Motor Fuel, at the rate of four cents (\$0.04) per gallon or fraction thereof.

(A) This tax shall be in addition to any and all other taxes;

(B) The ultimate incidence and liability for payment of such tax shall be upon the retail purchaser of motor fuel. Nothing herein shall be construed to impose a tax upon the occupation of selling motor fuel.

**3-37-3 COLLECTION OF TAX**

Each Motor Fuel Retailer located within the Village of Oswego, shall have the duty to collect the motor fuel tax from each purchaser and to pay it over to the Village of Oswego, along with an accounting therefor, on return forms provided by the Village.

(A) The return and tax payment shall be filed with the Finance Director on the same filing dates as are established for filing with the Illinois department of revenue of the Retailer's Occupational Tax return form RR-1-A.

### **3-37-4 REGISTRATION AND MAINTENANCE OF RECORDS**

(A) Each Motor Fuel Retailer shall register with the Village of Oswego, IL. on forms provided by the Finance Director.

(B) Each Motor Fuel Retailer within the Village shall jointly and severally have the duty to maintain complete and accurate books, records and accounts, showing the gross receipts for sales of motor fuel and the taxes collected each day pursuant to the local motor fuel tax, which shall be made available in the Village for examination and audit in conformance with the Village Local Tax Collection Ordinance.

### **3-37-5 ALLOCATION OF FUNDS COLLECTED**

All moneys collected pursuant to this Chapter shall be allocated for roadway improvements and roadway maintenance.

### **3-37-6 LATE PAYMENT PENALTY**

If any tax imposed by this Chapter is not paid over to the Village when due, a late payment penalty equal to five percent (5%) of the unpaid tax shall be added for each month or any portion thereof, that such tax remains unpaid and the total of such late payment penalty shall be paid along with the tax imposed hereby. The Village may bring a civil action to collect any unpaid tax or penalty.

### **3-37-7 PENALTY**

In addition to any other penalty, any person or licensee violating any provisions of this chapter upon conviction thereof shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred dollars (\$500.00) for each such offense. Each failure to collect the tax imposed hereby and each failure to pay such tax over to the Village of Oswego, IL. shall constitute a separate violation.

**VILLAGE OF OSWEGO**  
**KENDALL AND WILL COUNTY, ILLINOIS**

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**ORDINANCE NO. 17 - 49**

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

**(Locally Imposed and Administered Tax Rights and Responsibility)**

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

**This 5th day of September 2017**

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

**ORDINANCE NO. 17 - 49**

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

**(Locally Imposed and Administered Tax Rights and Responsibility)**

---

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

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

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

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

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

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

**Section 2: SEVERABILITY.**

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

**Section 3: REPEALER.**

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

**Section 4: EFFECTIVE DATE.**

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

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

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

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

  
GAIL E. JOHNSON, VILLAGE PRESIDENT

  
TINA TOUCHETTE, VILLAGE CLERK

STATE OF ILLINOIS        )  
                                  )  
COUNTIES OF KENDALL    )  
AND WILL                    )        SS

**CLERK'S CERTIFICATE**  
**(ORDINANCE)**

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

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

**(Locally Imposed and Administered Tax Rights and Responsibility)**

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

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

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



*Tina Touchette*  
\_\_\_\_\_  
Tina Touchette, Village Clerk  
Village of Oswego



**TITLE 3 CHAPTER 35**

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

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

**3-35-1 DEFINITIONS**

**3-35-2 NOTICES**

**3-35-3 LATE PAYMENT**

**3-35-4 PAYMENT**

**3-35-5 CERTAIN CREDIT AND REFUNDS**

**3-35-6 AUDIT PROCEDURE**

**3-35-7 APPEAL**

**3-35-8 HEARING**

**3-35-9 INTEREST AND PENALTIES**

**3-35-10 ABATEMENT**

**3-35-11 INSTALLMENT CONTRACTS**

**3-35-12 STATUTE OF LIMITATIONS**

**3-35-13 VOLUNTARY DISCLOSURE**

**3-35-14 PUBLICATION OF TAX ORDINANCES**

**3-35-15 REVIEW PROCEDURES**

**3-35-16 APPLICATION**

**3-35-1 DEFINITIONS:**

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

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

CORPORATE AUTHORITIES: The Village President and Board of Trustees.

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

LOCAL TAX ADMINISTRATOR: The Village Finance Director, charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this subchapter to give full effect to this subchapter. The exercise of such authority by the local tax administrator shall not be inconsistent with this subchapter and the Act.

LOCALLY IMPOSED AND ADMINISTERED TAX or TAX: Each tax imposed by the village that is collected or administered by the village, not an agency or department of the state.

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

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

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

VILLAGE: The Village Oswego, Illinois.

**3-35-2 NOTICES;**

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

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

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

**3-35-3 LATE PAYMENT;**

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

**3-35-4 PAYMENT;**

Any payment or remittance received for a tax period shall be applied in the following order:

- (A) First to the tax due for the applicable period;
- (B) Second to the interest due for the applicable period; and
- (C) Third to the penalty for the applicable period.

**3-35-5 CERTAIN CREDITS AND REFUNDS;**

(A) The village shall not refund or credit taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

(B) The statute of limitations on a claim for credit or refund shall be four years after the end of the calendar year in which payment in error was made. The village shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the village.

(C) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest, or penalties paid in error shall be as follows:

1. The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:

(a) The name of the locally imposed and administered tax subject to the claim;

(b) The tax period for the locally imposed and administered tax subject to the claim;

(c) The date of the tax payment subject to the claim and the cancelled check or receipt for the payment;

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

(e) A request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the village.

2. Within ten days of receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:

(a) Grant the claim; or

(b) Deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.

3. In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of 4% per annum, based on a year of 365 days and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

### **3-35-6 AUDIT PROCEDURE:**

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

1. The tax;

2. The time period of the audit; and

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

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

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

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

(D) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English language and shall be subject to and available for inspection by the village.

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

(F) If an audit determines that there has been an overpayment of a locally imposed and administered tax as a result of the audit, the written notice of the amount of overpayment shall be given to the taxpayer within 30 days of the village's determination of the amount of overpayment.

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

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

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

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

### 3-35-7 APPEAL:

(A) The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

1. The reason for the assessment;
2. The amount of the tax liability proposed;
3. The procedure for appealing the assessment; and
4. The obligation of the village during the audit, appeal, refund and collection process.

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

(C) If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within 14 days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) If a written protest and petition for hearing is not filed within the 45 day period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.

(E) Upon showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with the interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than 60 days after the expiration of the 45 day period.

### **3-35-8 HEARING:**

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

(B) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed 14 days.

(C) At the hearing, the local tax administrator/ hearing officer shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.

(D) At the conclusion of the hearing, the local tax administrator/hearing officer shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

### **3-35-9 INTEREST AND PENALTIES:**

In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

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

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

### **3-35-10 ABATEMENT:**

The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

### **3-35-11 INSTALLMENT CONTRACTS:**

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

### **3-35-12 STATUTE OF LIMITATIONS:**

(A) The village, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have 45 days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

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

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

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

### **3-35-13 VOLUNTARY DISCLOSURE:**

For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of 1% per month, for all periods prior to the filing of the application but not more than four years before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than 90 days after the filing of the voluntary disclosure application or the date agreed by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this section must be paid

within 90 days after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

**3-35-14 PUBLICATION OF TAX ORDINANCES:**

Any locally administered tax shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all ordinances shall be made available to the public upon request at the Village Clerk's office.

**3-35-15 REVIEW PROCEDURES:**

The local tax administrator shall establish an internal review procedure regarding any liens against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

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

**3-35-16 APPLICATION:**

This subchapter shall be liberally construed and administered to supplement all of the village's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this subchapter, this subchapter shall be controlling.