

CHAPTER 36

TAXATION

ARTICLE I - SALES TAX

36-1-1 SERVICE OCCUPATION TAX.

(A) A tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service at the rate of 1 percent of the cost price of all tangible personal property transferred by said 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 the provisions of Section 8-11-5 of the Illinois Municipal Code.

(B) Every supplier or serviceman required to account for Municipal Service Occupation Tax for the benefit of this municipality shall file on or before the last day of each calendar month, the report to the State Department of Revenue, required by Section 9 of the "Service Occupation Tax Act," approved July 10, 1961, as amended.

(C) At the time such report is filed, there shall be paid to the State Department of Revenue, the amount of tax hereby imposed. (1969)

36-1-2 MUNICIPAL RETAILER'S OCCUPATION TAX.

(A) A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in this municipality at the rate of 1 percent of the gross receipts from such sales made in the course of such business while this Code is in effect, in accordance with the provisions of Section 8-11-1 of the Illinois Municipal Code.

(B) Every such person engaged in such business in the municipality shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by Section 3 of "An Act in Relation to a Tax Upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption," approved June 28, 1933, as amended.

(C) At the time such report is filed, there shall be paid to the State Department of Revenue, the amount of tax hereby imposed on account of the receipts from the sales of tangible personal property during the preceding month. (1969)

36-1-3 IMPOSITION OF USE TAX.

(A) A tax is hereby imposed in accordance with the provisions of Section 8-11-6 of the Illinois Municipal Code upon 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

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of Illinois government. The tax shall be at the rate of 1 percent of the selling price of such tangible property with selling price to have the meaning as defined in the "Use Tax Act," approved July 14, 1955.

(B) Such tax shall be collected by the Illinois 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.

(C) The Clerk is hereby directed to transmit to the Illinois Department of Revenue a certified copy of this Code not later than 5 days after the effective date of this Code. (#58)

36-1-4 AUTOMOBILE RENTING OCCUPATION TAX.

(A) A tax is hereby imposed upon all persons engaged in the business of renting automobiles in this municipality at the rate of 1 percent of the gross receipts from such rentals made in the course of such business while this Code is in effect, in accordance with the provisions of Section 8-11-7 of the Illinois Municipal Code.

(B) Every such person engaged in such business in this municipality shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by Sections 2 and 3 of "An Act in Relation to a Tax upon Persons engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption," approved June 29, 1933, as amended.

(C) At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the renting of automobiles during the preceding month.

(D) The Clerk is hereby directed to transmit to the State Department of Revenue a certified copy of this Code not later than 5 days after the effective date of this Code. (#82-2)

36-1-5 AUTOMOBILE RENTING USE TAX.

(A) A tax is hereby imposed upon the privilege of using in this municipality an automobile which is rented from a renter outside Illinois and which is titled or registered with an agency of this State's government in this municipality at the rate of 1 percent of the rental price of such automobile while this Code is in effect, in accordance with the provisions of Section 8-11-8 of the Illinois Municipal Code.

(B) The tax provided for in this Code shall be collected from the persons whose Illinois address for titling or registration purposes is given as being in this municipality.

(C) A tax imposed by this Code shall be paid to the Illinois Department of Revenue.

(D) The Clerk is hereby directed to transmit to the State Department of Revenue a certified copy of this Code not later than 5 days after the effective date of this Code. (#82-1)

## ARTICLE II - GENERAL TAXES

36-2-1 CORPORATE TAX. The maximum rate for general corporate purposes of the Village shall be and the same is hereby established at a rate of .297%. (Ill. Rev. Stat., Ch. 24; Sec. 8-3-1) (#114; 11-07-51)

36-2-2 LIGHTING TAX. The maximum rate for street lighting purposes of the Village shall be and the same is hereby established at a rate of .25%.

36-2-3 POLICE TAX. The maximum rate for police protection purposes of the Village shall be and the same is hereby established at a rate of .075%.

## ARTICLE III - TAXPAYERS' BILL OF RIGHTS

36-3-1 DEFINITIONS. Certain words or terms herein shall have the meaning ascribed to them as follows:

"Act" means the "Local Government Taxpayers' Bill of Rights Act."

"Corporate Authorities" means the Village President and Board of Trustees.

"Locally imposed and administered tax" or "tax" means each tax imposed by the Village that is collected or administered by the Village, not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the Village other than infrastructure maintenance fees.

"Local tax administrator," the Village Clerk, 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 ordinance to give full effect to this ordinance. The exercise of such authority by the local tax administrator shall not be inconsistent with this ordinance and the Act.

"Village" means the Village of Germantown, Clinton County, Illinois.

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

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

"Taxpayer" means any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to

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consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the Village.

36-3-2 NOTICES. Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than seven (7) calendar days prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

- (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.

36-3-3 LATE PAYMENT. Any notice, payment, remittance or other filing required to be made to the Village pursuant to any tax ordinance shall be considered late unless it is (a) physically received by the Village on or before the due date, or (b) received in an envelope or other container displaying a valid, readable U. S Postmark dated on or before the due date, properly addressed to the Village, with adequate postage prepaid.

36-3-4 PAYMENT. Any payment or remittance received for a tax period shall be applied in the following order: (1) first to the tax due for the applicable period; (2) second to the interest due for the applicable period; and (3) third to the penalty for the applicable period.

36-3-5 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 one (1) year after the end of the calendar year in which payment in error was made. The Village shall not grant a credit or refund 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:

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

- (i) the name of the locally imposed and administered tax subject to the claim;
- (ii) the tax period for the local imposed and administered tax subject to the claim;

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- (iii) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment,
- (iv) the taxpayer's recalculation accompanied by an amended or revised tax return, in connection with the claim; and
- (v) 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.

(B) Within thirty (30) days of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:

- (i) grant the claim; or
- (ii) 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.

(C) 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 5% 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.

36-3-6 AUDIT PROCEDURE. Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this ordinance.

(a) Each notice of audit shall contain the following information:

- (i) the tax;
- (ii) the time period of the audit; and
- (iii) a brief description of the books and records to be made available for the auditor.

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

(c) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than seven (7) days or more than thirty days from the date the notice is given, unless the taxpayer and the local administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the thirty (30) days, approved in writing, that is convenient to the taxpayer and the local administrator.

(d) Every taxpayer shall keep accurate books and records of the taxpayers' business or activities, including original source

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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 taxpayers' tax liability.

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

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

36-3-7 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 bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (i) the reason for the assessment;
- (ii) the amount of the tax liability proposed;
- (iii) the procedure for appealing the assessment; and
- (iv) the obligations of the Village during the audit, appeal, refund and collection process.

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

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

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

(e) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopened or extend the time for filing a written protest and

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petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than ninety (90) days after the expiration of the forty-five day period.

**36-3-8 HEARING.**

(a) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under section nine, above, the local tax administrator shall conduct a hearing regarding any appeal.

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

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

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

**36-3-9 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 5.0% 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 a failure to file penalty is imposed by the controlling ordinance.

**36-3-10 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.

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36-3-11 INSTALLMENT CONTRACTS. The Village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is thirty (30) days delinquent, the taxpayer shall have fourteen (14) working days to cure any delinquency. If the taxpayer fails to cure the delinquency within the fourteen (14) day period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

36-3-12 STATUTE OF LIMITATIONS. The Village, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have forty-five (45) days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

(a) No determination of tax due and owing may be issued more than 4 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 4-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 (6) years maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(c) No statute of limitations shall apply if a fraudulent tax return was filed by the taxpayer.

36-3-13 VOLUNTARY DISCLOSURE. For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of one percent (1%) per month, for all periods prior to the filing of the application but not more than four (4) years before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than ninety (90) days after the filing of the voluntary disclosure



application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within ninety (90) days after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

**ARTICLE IV - TAX INCREMENT FINANCING (T.I.F.)  
INTERESTED PARTIES REGISTRY**

36-4-1      REGISTRY REGISTRATION RULES.

- (A) **Definitions.** As used in these Registration Rules, the following terms shall have the definitions set forth below:

“Act” shall mean the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1; et seq. ~~As amended from time to time.~~

“Village” shall mean the Village of Germantown.

“TIF Committee” shall mean the Zoning, Subdivision and TIF Committee.

“Department” shall mean any department, committee, division, agency, bureau or administrative subdivision of the Village.

“Interested Party(s)” shall mean (a) any organization(s) active within the Village, (b) any resident(s) of the Village and (c) any other entity or person otherwise entitled under the Act to register in a specific Registry who has registered in such Registry and whose registration has not been terminated in accordance with these Registration Rules.

“Redevelopment Project Area” shall mean a redevelopment project area that (a) is intended to qualify (or that has subsequently qualified) as a “redevelopment project area” under the Act, and (b) is subject to the “interested parties” registry requirements of the Act.

“Registration Form” shall mean the form appended to these Registration Rules, or such revised form as may be approved by the TIF Committee consistent with the requirements of the Act.

“Registry” or “Registries” shall mean each interested parties registry, and all such registries, collectively, established by the Village pursuant to Section 11-74.4-4.2 of the Act for a Redevelopment Project Area.

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- (B) **Establishment of Registry.** The Village shall establish a separate interested parties Registry for each Redevelopment Project Area, whether existing as of the adoption of these Rules or hereafter established.
- (C) **Maintenance of Registry.** The registries shall be maintained by the Village Clerk's Office.
- (D) **Amendment to Registration.** An interested Party may amend its registration by giving written notice to the TIF Committee by certified mail of any of the following: (i) a change in address for notice purposes; (ii) in the case of organizations, a change in the name of the contact person; and (iii) a termination of registration. Upon receipt of such notice, the TIF Committee shall revise the applicable Registry accordingly.
- (E) **Registries Available for Public Inspection.** Each Registry shall be available for public inspection during normal Village business hours. The Registry shall include the name, address and telephone number of each interested Person, and for organizations, the name and phone number of a designated contact person.

36-4-2 **OBTAINING REGISTRIES.** Village of Germantown residents and T.I.F. District property owners can receive registries at no cost by visiting the Village of Germantown Village Hall. Those requesting it by mail shall send a self-addressed stamped envelope. Non-residents shall pay a per page fee in accordance with the Freedom of Information Act plus any applicable postage (if requested by mail).