

CHAPTER 2  
MUNICIPAL UTILITY TAX

3-2-1: Gross Receipts Taxes

- A. Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the Village of Holiday Hills, and not for re-sale, at the rate of five percent (5%) of the gross receipts therefrom.
- B. Persons engaged in the business of distributing, supplying, furnishing, or selling electricity for use or consumption within the corporate limits of the Village of Holiday Hills, and not for re-sale, at the rate of five percent (5%) of the gross receipts therefrom. The tax imposed under this Section 3-2-1 shall not apply with respect to gross receipts pertaining to bills for the distribution, supply, furnishing or sale of electricity where the use or consumption of the electricity is subject to the tax imposed under Section 3-2-2 hereof. If a taxpayer under this Section 3-2-1 is unable to use a credit authorized by this Chapter solely because the tax imposed by this Section 3-2-1 has been replaced by the tax imposed under Section 3-2-2 hereof, then the taxpayer may apply such credit against any tax due under Section 3-2-2 hereof.
- C. Persons engaged in the business of distributing, supplying, furnishing, or selling water for use or consumption within the corporate limits of the Village of Holiday Hills, and not for re-sale, at the rate of five percent (5%) of the gross receipts therefrom.
- D. Definitions: For the purpose of this Section, the following definitions shall apply:
  - 1. "Gross receipts" means the consideration received for distributing, supplying, furnishing or selling gas or water, for use or consumption and not for re-sale, 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. The term "gross receipts" shall not include any charges added to customers' bills pursuant to the provisions of Sections 9-221 or 9-222 of the Illinois Public Utilities Act or any other separately stated charge added to customers' bills in respect of any tax or other governmental imposition.

2. "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability corporation, municipal corporation, the State or any political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court.
- E. The tax provided for in this Chapter shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the 1st day of April, 1999.
- F. On or before the last day of July, 1999 each taxpayer shall make a return to the Village Treasurer for the months of April, May and June, 1999, 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.

On or before the last day of every third month thereafter, each taxpayer shall make a like return to the Village Treasurer for a corresponding three months period.

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.

### 3-2-2: Kilowatt-Hour Municipal Electricity Tax

A. Definitions: As used in this Section, unless the context otherwise required:

1. "Village" means the Village of Holiday Hills;
2. "Person" means 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, or a receiver, trustee, conservator or other representative appointed by order of any court;

3. “Person maintaining a place of business in this State” means any person having or maintaining within this State, directly or by a subsidiary or other affiliate, an office, generation, facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within this 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 this State.
4. “Purchase at retail” of electricity means 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 Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2), directly in the generation, production, transmission, delivery or sale of electricity.
5. “Purchaser of electricity” means any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail.
6. “Tax collector” means the person delivering electricity to the purchaser.

B. Tax Imposed:

1. Pursuant to Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2) and any and all other applicable authority, a tax is imposed upon the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each purchaser:
  - (a) For the first 2,000 kilowatt-hours used or consumed in a month: .555 cents per kilowatt-hour;
  - (b) For the next 48,000 kilowatt-hours used or consumed in a month: .364 cents per kilowatt-hour;
  - (c) For the next 50,000 kilowatt-hours used or consumed in a month: .327 cents per kilowatt-hour;
  - (d) For the next 400,000 kilowatt-hours used or consumed in a month: .318 cents per kilowatt-hour;
  - (e) For the next 500,000 kilowatt-hours used or consumed in a month: .309 cents per kilowatt-hour;
  - (f) For the next 2,000,000 kilowatt-hours used or consumed in a month: .291 cents per kilowatt-hour;
  - (g) For the next 2,000,000 kilowatt-hours used or consumed in a month: .286 cents per kilowatt-hour;

- (h) For the next 5,000,000 kilowatt-hours used or consumed in a month: .282 cents per kilowatt-hour;
  - (i) For the next 10,000,000 kilowatt-hours used or consumed in a month: .277 cents per kilowatt-hour; and
  - (j) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month: .273 cents per kilowatt-hour.
- C. The tax imposed by this Section is in addition to all taxes, fees and other revenue measures imposed by the Village, the State of Illinois, or any other political subdivision of the State.
- D. Notwithstanding any other provision of this Section, 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.
- E. The tax shall be imposed with respect to the use or consumption of electricity by residential customers beginning with the first bill issued on or after August 1, 1999; and with respect to the use or consumption of electricity by nonresidential customers beginning with the first bill issued to such customers for delivery services in accordance with Section 16-104 of the Public Utilities Act (220 ILCS 5/16-104), or the first bill issued to such customers on or after January 1, 2001, whichever issuance occurs sooner.
- F. Collection of Tax:
  - 1. Subject to the provisions of Section 3-2-2(H) of this Section regarding the delivery of electricity to resellers, the tax imposed under this Section shall be collected from purchasers by the person maintaining a place of business in this State who delivers electricity to such purchasers. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity.
  - 2. Any tax required to be collected by this Section, and any tax in fact collected, shall constitute a debt owned 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.

3. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to three percent (3%) of the tax they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. For purposes of this Section, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

G. Tax Remittance and Return:

1. Every taxpayer under this Section shall on a monthly basis file a return in a form prescribed by the Village Treasurer. The return and accompanying remittance shall be due on or before the last day of the month following the month during which the tax is collected or is required to be collected under Section 3-2-2(F) of this Section.
2. If the person delivering electricity fails to collect the tax from the purchaser or is excused from collecting the tax under Section 3-2-2(H) of this Section, then the purchaser shall file a return in a form prescribed by the Village Treasurer and pay the tax directly to the Village Treasurer on or before the last day of the month following the month during which the electricity is used or consumed.

H. Resales.

1. Electricity that is delivered to a person in the Village shall be considered to be for use and consumption by that person unless the person receiving the electricity has an active resale number issued by the Village Treasurer and furnishes that number to the person who delivers the electricity, and certifies to that person that the sale is either entirely or partially nontaxable as a sale for resale.
2. If a person who receives electricity in the Village claims to be an authorized reseller of electricity, that person shall apply to the Village Treasurer for a resale number. The applicant shall state facts showing why it is not liable for the tax imposed by this Section on any purchases of electricity and shall furnish such additional information as the Village Treasurer may reasonably require.
3. Upon approval of the application by the Village Treasurer, the Village Treasurer shall assign a resale number to the applicant and shall certify the number to the applicant.

4. The Village Treasurer may cancel the resale number of any person if the person fails to pay any tax payable under this Section for electricity used or consumed by the person, or if the number: (1) was obtained through misrepresentation; or (2) is no longer necessary because the person has discontinued making resales.
5.
  - (a) If a reseller has acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by this Section directly to the Village Treasurer pursuant to this Section on the amount of electricity that the reseller uses or consumes, and shall collect the tax pursuant to Section 3-2-2(F) of this Section and remit the tax pursuant to this Section on the amount of electricity delivered by the reseller to a purchaser.
  - (b) Any person who delivers electricity to a reseller having an active resale number and complying with all other conditions of this Section shall be excused from collecting and remitting the tax on any portion of the electricity delivered to the reseller, provided that the person reports to the Village Treasurer the total amount of electricity delivered to the reseller, and such other information that the Village Treasurer may reasonably require.

3-2-3: General Provisions:

- A. No tax is imposed by this Chapter with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the constitution and statutes of the United States, be made subject to taxation by this State of any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing or selling gas, water or electricity be subject to taxation under the provisions of this Chapter for such transactions as are or may become subject to taxation under the provisions of the “Municipal Retailers’ Occupation Tax Act” authorized by Section 8-11-1 of the Illinois Municipal Code.
- B. Such taxes as imposed by this Chapter 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 taxpayers’ business.
- C. Books and Records: Every tax collector, and every taxpayer required to pay the tax imposed by this Chapter shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this Chapter. The books and records shall be subject to and available for inspection at all times during business hours of the day.

- D. Credits and Returns: Notwithstanding any other provision of this Chapter, in order to permit sound fiscal planning and budgeting by the Village, no person shall be entitled to a refund of, or credit for, a tax imposed under this Chapter unless the person files a claim for refund or credit within one (1) year after the date on which the tax was paid or remitted to the Village Treasurer.
- E. Penalties: Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Chapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Seven Hundred Fifty Dollars (\$750.00) and, in addition, shall be liable in a civil action for the amount of tax due.