

CHAPTER 3
MUNICIPAL TELECOMMUNICATIONS TAX

3-3-1: Short Title: This Chapter shall be known and cited as the “Holiday Hills Telecommunications Tax Ordinance”. The tax imposed by this Chapter shall be known as the “Holiday Hills Telecommunications Tax” and is imposed in addition to all other taxes imposed by the Village of Holiday Hills, the State of Illinois or any other municipal corporation or political subdivision thereof.

3-3-2: Definitions. When any of the following words or terms are used in this Chapter, whether or not capitalized, they shall have the meaning or construction ascribed to them in this section:

- A. “Village” means the Village of Holiday Hills, Illinois.
- B. “Treasurer” means the Treasurer of the Village, and in the event of a vacancy in that office, the Village Clerk.
- C. “Amount paid” means the amount charged to the taxpayer’s service address located in the Village regardless of where such amount is billed or paid.
- D. “Gross charge” means the amount paid for the act or privilege of originating or receiving telecommunications in the Village, and for all services rendered in connection therewith, valued in money, whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. However, “gross charge” shall not include:
 - 1. Any amounts added to a purchaser’s bill because of a charge made pursuant to: (a) the tax imposed by this Chapter, (b) additional charges added to a purchaser’s bill pursuant to Section 9-222 of the Illinois Public Utilities, Act, (c) the tax imposed by the Illinois Telecommunications Excise Tax Act, or (d) the tax imposed by Section 4251 of the United States Internal Revenue Code;
 - 2. Charges for a sent collect telecommunication received outside of the Village;
 - 3. Charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. This subsection (D)(3) applies, but is not limited, to the use of calculators, computers, data processing equipment, tabulating equipment and accounting equipment and also applies to the usage of computers under a time-sharing agreement;
 - 4. Charges for customer equipment, including equipment that is leased or rented by the customer from any source, provided that such charges are disaggregated and separately identified from other charges;

5. Charges to business enterprises certified under Section 9-222.1 of the Illinois Public Utilities Act to the extent of such exemption and during the period of time specified by the Illinois Department of Commerce and Community Affairs;
 6. Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries, or between the wholly owned subsidiaries, when the tax imposed under this Chapter previously was paid to a retailer, but only to the extent that the charges between the parent corporation and wholly owned subsidiaries, or between the wholly owned subsidiaries, represent an expense allocation between the corporations and not the generation of profit for the corporation rendering such services;
 7. Bad debts; provided, however, that if any portion of a debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion of the debt paid during the reporting period; or
 8. Charges paid by inserting coins in coin-operated telecommunication devices.
- E. “Bad debt” means any portion of a debt that is related to a sale at retail, for which gross charges are not otherwise deductible or excludable, that has become worthless or uncollectible as determined by applicable federal income tax standards.
- F. “Interstate telecommunications” means all telecommunications that originate or terminate outside the State of Illinois.
- G. “Intrastate telecommunications” means all telecommunications that originate and terminate within the State of Illinois.
- H. “Person” means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, any receiver, trustee, guardian or other representative appointed by order of any court, the federal government, state governments, state universities created by statute or any city, town, county or other political subdivision of this State.
- I. “Purchase at retail” means the acquisition, consumption or use of telecommunications through a sale at retail.
- J. “Retailer” means and includes every person engaged in the business of making sales at retail as defined in subsection (L) of this Section.
- K. “Retailer maintaining a place of business in this State”, or any like designation, means and includes any retailer having or maintaining within the State of Illinois, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or an agent or other representative operating within the State of Illinois under the authority of the retailer or its subsidiary, irrespective of whether such place of business, agent or other representative is located in the State of Illinois permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in Illinois.
- L. “Sale at retail” means the transmitting, supplying or furnishing of telecommunications and all services rendered in connection therewith for consideration:

1. To persons other than the Village, federal government, state governments and state universities created by statute; and
 2. Other than between a parent corporation and its wholly owned subsidiaries, or between the wholly owned subsidiaries, but only when the tax previously has been paid to a retailer and the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for resale.
- M. “Service address” means the location of telecommunications equipment from which telecommunications are originated or at which telecommunications are received by a taxpayer. If this location is not a defined location, as in the case of mobile phones, paging systems, maritime systems, air-to-ground systems and the like, “service address” shall mean the location of a taxpayer’s primary use of the telecommunications equipment as defined by telephone number, authorization code or location in Illinois where bills are sent.
- N. “Taxpayer” means a person that individually, or through its agents, employees or permittees, engages in the act or privilege of originating or receiving telecommunications in the Village and that incurs a tax liability under this Chapter.
- O. (1) “Telecommunications”, in addition to the usual and popular meaning, includes but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, private line services, channel services, telegraph services, teletypewriter service, computer exchange service, cellular mobile telecommunications service, specialized mobile radio services, paging service or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities.
- (2) The definition of “telecommunications” set forth in subsection (O)(1) shall not include (a) value-added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission or (b) purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by it to the ultimate retail consumer originating or terminating the taxable end-to-end telecommunications.

3-3-3: Tax Imposed.

- A. A tax is hereby imposed upon:
 - 1. The act or privilege of originating in the Village or receiving in the Village intrastate telecommunications by a person at a rate of five percent (5%) of the gross charge for such telecommunications purchased at retail from a retailer; and
 - 2. The act or privilege of originating in the Village or receiving in the Village interstate telecommunications by a person at a rate of five percent (5%) of the gross charge for such telecommunications purchased at retail from a retailer.
- B. To prevent actual multi-state taxation of the act or privilege that is subject to taxation under subsection (A)(2) of this Section, any taxpayer, upon proof that the taxpayer has paid a tax in another state on the same event, shall be allowed a credit against the tax authorized by subsection (A)(2) to the extent of the amount of such tax properly due and paid in such other state which was not previously allowed as a credit against any other state or local tax in the State of Illinois.
- C. The tax imposed by this Chapter is not imposed on any act or privilege to the extent that such act or privilege may not, under the Constitution or statutes of the United States, be made the subject of taxation by the Village.
- D. Carrier access charges, right of access charges, charges for use of inter-company facilities and all telecommunications resold in the subsequent provision of, used as a component of or integrated into end-to-end telecommunications service are sales for resale and are not subject to the tax imposed by this Chapter.

3-3-4: Collection of Tax by Retailers.

- A.
 - (1) Any retailer maintaining a place of business in this State and making or effectuating a sale at retail shall collect the tax imposed by this Chapter from the taxpayer and remit it to the Treasurer as provided by Section 3-3-5 of this Chapter.
 - (2) Any tax required to be collected pursuant to this Chapter and any tax collected by the retailer shall constitute a debt owed by the retailer to the Village.
 - (3) The retailer shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use in the manner prescribed by this Chapter.
 - (4) The tax imposed by this Chapter shall constitute a debt of the purchaser to the retailer providing taxable services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for taxable services.

- B. The Village Treasurer shall, upon application, authorize the collection of this tax by any retailer not maintaining a place of business in this State who, to the satisfaction of the Village Treasurer, furnishes adequate security to ensure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect the tax imposed by this Chapter. When so authorized, it shall be the duty of the retailer to collect the tax upon all of the gross charges for telecommunications originated or received in the Village in the same manner, and subject to the same requirements, as a retailer maintaining a place of business in this State.
- C. The tax authorized by this Chapter shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.
- D. Retailers may retain 1.75 percent of the tax they collect to reimburse them for expenses incurred in connection with collecting and remitting the tax, less any charge allowed by the Illinois Commerce Commission that permits them to recover such expenses, but this retainage shall not be allowed for taxes not timely remitted to the Village Treasurer.

3-3-5: Filing Returns and Remittances by Retailers: On or before the last day of each calendar month, every retailer maintaining a place of business in this State and every retailer authorized by the Village Treasurer to collect the tax imposed by this Chapter shall file with the Village Treasurer a remittance return and remit all applicable tax for the preceding calendar month. The return shall be filed on a form prescribed by the Village Treasurer, containing such information as the Village Treasurer may reasonably require.

3-3-6: Registration: Every retailer maintaining a place of business in this Village shall register with the Village Treasurer within 30 days after the effective date of this Chapter or the date of becoming such a retailer, whichever is later.

3-3-7: Obligation of Taxpayers to File Returns and Pay Tax.

- A. If a retailer fails to collect the tax imposed by this Chapter from a taxpayer, as required by Section 3-3-4, then the taxpayer shall pay the tax directly to the Village Treasurer.
- B. On or before the last day of each calendar month, every taxpayer that has not paid the tax imposed by this Chapter to a retailer shall file with the Village Treasurer a tax return and pay the tax upon the gross charges the taxpayer paid to the retailer during the preceding calendar month. The return shall be filed on a form prescribed by the Village Treasurer, containing such information as the Village Treasurer may reasonably require.

3-3-8: Resale Numbers.

- A. If a person who originates or receives telecommunications in the Village claims to be a reseller of telecommunications, 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 Chapter on any purchases of telecommunications and shall furnish such additional information as the Village Treasurer may reasonably require.
- B. Upon approval of the application, the Village Treasurer shall assign a resale number to the applicant and shall certify the number to the applicant.
- C. The Village Treasurer may cancel the resale number of any person if the number: (1) was obtained through misrepresentation, (2) is used to originate or receive telecommunications tax-free when such telecommunications are not for resale, or (3) is no longer necessary because the person has discontinued making resales.
- D. The act or privilege of originating or receiving telecommunications in the Village shall not be made tax-free on the ground of being a sale or resale unless the person has an active resale number issued by the Village Treasurer and furnishes that number to the retailer in connection with certifying to the retailer that a sale is nontaxable as a sale for resale.

3-3-9: Maintaining Books and Records: Every retailer maintaining a place of business in this State, every retailer authorized by the Village Treasurer to collect the tax imposed by this Chapter and every taxpayer required by Section 3-3-7 to pay the tax directly to the Village Treasurer shall keep accurate books and records of its business activity, including original source documents and books of entry denoting the transactions that gave rise, or may have given rise, to any tax liability or exemption. All such books and records shall be kept in the English language and, at all times during business hours of the day, shall be subject to and available for inspection by the Village Treasurer, or his or her designee.

3-3-19: Application of Uniform Revenue Procedures Ordinance: Whenever not inconsistent with the provisions of this Chapter, or whenever this Chapter is silent, the provisions of the Uniform Revenue Procedures Ordinance shall apply to and supplement this Chapter.

3-3-20: Rules and Regulations: The Village President, or his or her designee, is authorized to adopt, promulgate and enforce rules and regulations pertaining to the administration and enforcement of this Chapter.