

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

Resolution or Ordinance (Blue) _____
Waiver of First Requested
Recommendations of Boards, Commissions & Committees (Green) _____
Other Business (Pink) _____

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Huliseberg, Village Manager *DAH*

DATE: 8/14/2008 (COW)(B of T) Date: August 21, 2008

TITLE: Local Government Taxpayers' Bill of Rights

SUBMITTED BY: Rhonda Heabel, Assistant Director of Finance

BACKGROUND/POLICY IMPLICATIONS:

Presently, the Village charges 18% interest on overdue tax payments. Staff recommends changing this provision to reflect that which the Internal Revenue Service (IRS) charges. Under the IRS code, the rate of interest is determined on a quarterly basis and has fluctuated over the past several years. The rate on average for the last five (5) years has been as high as 7% and as low as 4%.

I have also included a copy of ILCS 735/3-2 as referenced in the Ordinance.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director *John for Trustee Section* _____ Date _____
Village Manager X *Rhonda Heabel* _____ Date *8/14/08*

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



To: Tim Sexton
Director of Finance

From: Rhonda Heabel
Assistant Director of Finance

Date: August 13, 2008

Subject: Staff Recommendation to Reduce the Interest Due on Overdue Tax Payments

As you know, in December 2000, the Village amended its Village Code to be in compliance with the Local Taxpayers' Bill of Rights Act, as enacted by the Illinois General Assembly and signed into law by the Governor. This Act required that all Illinois municipalities adopt an ordinance outlining certain procedures regarding the collection and administration of taxes by the municipality. At that time, the Village established the interest on overdue payments to accrue at the rate of 1.5% of the amount due for each month or part of a month the tax remains unpaid.

In December 2006, the Village entered into an Agreement with Azavar Audit Solutions, Inc. to conduct an audit of the Village of Lombard's Municipal Utility/Telecommunication Taxes. As Azavar conducted the audit, both delinquent taxpayers as well as Village Finance department staff was advised as to which taxpayers owed the Village money and the amount of the taxes and interest that were due. Upon notice of the first couple of taxpayers that owed the Village money, Staff shared the concern of the taxpayers that the interest due on the outstanding taxes owed was double the amount of the tax.

Attached is an ordinance amending the Lombard Village Code in regard to the interest due on overdue tax payments. Staff recommends that the Village of Lombard adopt the IRS interest rate for tax underpayments. Please be advised that this rate is reviewed by the IRS quarterly.

I am requesting that this item be placed on the Village Board agenda for Thursday, August 21, 2008. Please let me know if you have any questions.

Illinois Compiled Statutes

REVENUE

(35 ILCS 735/) Uniform Penalty and Interest Act.

(35 ILCS 735/3-1) (From Ch. 120, par. 2603-1) Sec. 3-1. This Article may be cited as the Uniform Penalty and Interest Act.

(Source: P.A. 87-205.)

(35 ILCS 735/3-1A) (From Ch. 120, par. 2603-1A) Sec. 3-1A. In this Article, references to this "Act" mean this "Article" and references to "Department" mean the Department of Revenue. Unless otherwise specified in a tax Act, this Act applies to all taxes administered by the Department of Revenue, except for the Racing Privilege Tax and the Property Tax Code, the Real Estate Transfer Tax Act, and the Coin Operated Amusement Device Tax.

(Source: P.A. 87-205; 88-670, eff. 12-2-94.)

(35 ILCS 735/3-2) (From Ch. 120, par. 2603-2) Sec. 3-2. Interest.

(a) Interest paid by the Department to taxpayers and interest charged to taxpayers by the Department shall be paid at the annual rate determined by the Department. For periods prior to January 1, 2004, that rate shall be the underpayment rate established under Section 6621 of the Internal Revenue Code. For periods after December 31, 2003, that rate shall be:

(1) For the one-year period beginning with the date of underpayment or overpayment, the short-term federal rate established under Section 6621 of the Internal Revenue Code.

(2) For any period beginning the day after the one-year period described in paragraph (1) of this subsection (a), the underpayment rate established under Section 6621 of the Internal Revenue Code.

(b) The interest rate shall be adjusted on a semiannual basis, on January 1 and July 1, based upon the underpayment rate or short-term federal rate going into effect on that January 1 or July 1 under Section 6621 of the Internal Revenue Code.

(c) This subsection (c) is applicable to returns due on and before December 31, 2000. Interest shall be simple interest calculated on a daily basis. Interest shall accrue upon tax and penalty due. If notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of the notice and demand.

(c-5) This subsection (c-5) is applicable to returns due on and after January 1, 2001. Interest shall be simple interest calculated on a daily basis. Interest shall accrue upon tax due. If notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of the notice and demand, interest under

(35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)
 Sec. 3-3. Penalty for failure to file or pay.
 (a) This subsection (a) is applicable before January 1, 1996. A penalty of 5% of the tax required to be shown due on a return shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing (penalty for late filing or nonfiling). If any unprocessable return is corrected and filed within 21 days after notice by the Department, the late filing or nonfiling penalty shall not apply. If a penalty for late filing or nonfiling is imposed in addition to a

(Source: P.A. 95-331, eff. 8-21-07.)
 Section.

is 200% of the rate that would otherwise be imposed under this Department under this Section shall be imposed at a rate that provided for in that Act, then the interest charged by the fails to satisfy the tax liability during the amnesty period amnesty under the Tax Delinquency Amnesty Act and the taxpayer (f) If a taxpayer has a tax liability that is eligible for than \$500 and is due to a mistake of the Department. will be charged if the erroneous refund is for an amount less from the date of payment of the refund. However, no interest which is recoverable by the Department shall bear interest interest or penalty which has been erroneously refunded and imposed by an Act to which this Act is applicable or any (e) Interest on erroneous refunds. Any portion of the tax taxable year in which the loss was incurred. Tax Act, the date of overpayment shall be the last day of the carryback as provided by Section 207 of the Illinois Income refund relates to an overpayment attributable to a net loss credit is applied to the taxpayer's account. If a claim for the Department or without regard to the date on which the later, to the date of payment by the Department without regard original return or the date of overpayment, whichever is for refund shall be determined from the due date of the credited pursuant to the filing of an amended return or claim following this date of notice. Interest on amounts refunded or however, interest shall not accumulate for the period processable within 90 days after the receipt of the return; the Department notifies the taxpayer that the return is not interest, a return shall be deemed to be processable unless tax as prescribed by law. For the purposes of computing necessary to determine the tax due and to make allocations of contain all information, schedules, and support documents by the Department, signed by the person authorized by law, and of this Section, it must be in the form prescribed or approved in order for an original return to be processable for purposes date on which the credit is applied to the taxpayer's account. processing time by the controller or without regard to the whichever date is latest, as determined without regard to the return, or within 90 days after the receipt of the processable days after the last date prescribed for filing the original if the overpayment is refunded or a credit approved within 90 (d) No interest shall be paid upon any overpayment of tax the period after the date of the notice and demand. this Section on the amount so paid shall not be imposed for

ORDINANCE NO. _____

**AN ORDINANCE AMENDING
TITLE 9, CHAPTER 98, SECTION 98.110C
OF THE LOMBARD VILLAGE CODE IN REGARD TO
THE INTEREST DUE ON OVERDUE TAX PAYMENTS**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard,

DuPage County, Illinois, as follows:

SECTION 1: That Title 9, Chapter 98, Section 98.110C of the Lombard Village Code is

amended to read in its entirety as follows:

"Notwithstanding any provision in this Code to the contrary, any tax not paid on the date due shall accrue interest at the same rate as applicable to unpaid State of Illinois taxes, as provided for in 35 ILCS 735/3-2, for each month or part of a month the tax remains unpaid."

SECTION 2: That this Ordinance shall be in full force and effect from and after its

passage, approval and publication in pamphlet form as provided by law.

PASSED on first reading this _____ day of _____, 2008.

First reading waived by action of the Board of Trustees this _____ day of _____, 2008.

PASSED on second reading this _____ day of _____, 2008.

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this _____ day of _____, 2008.

ATTEST:

William J. Mueller, Village President

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2008.

Brigitte O'Brien, Village Clerk

