

Chapter 48

TAXATION

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[HISTORY: Adopted by the Board of Trustees of the Village of Saltaire: Article I, 4-23-1977 as Local Law No. 2, 1977; Article II, 4-25-1987 as Local Law No. 2, 1987; Article III, 8-20-94 as Local Law No. 2, 1994. Amendments noted where applicable.]

ARTICLE I
Exemption for Businesses
[Adopted 4-23-1977 as L.L. No. 2, 1977]

§ 48-1. Amount of exemption.

As provided in Subdivision 7 of § 485-b of the Real Property Tax Law, the exemption table set forth in Subdivision 2(a) of that section shall be amended to read as follows:

Year of Exemption	Percentage of Exemption
1	0
2	0
3	0
4	0
5	0
6	0
7	0
8	0
9	0
10	0

§ 48-2. Referendum; filing of copies.

This chapter is subject to a permissive referendum as provided in § 24 of the Municipal Home Rule Law and shall take effect upon filing in the Secretary of State's office as provided in said law, and an additional copy shall be filed with the State Board of Equalization.

ARTICLE II
Utility Tax
[Adopted 4-25-1987 as L.L. No. 2, 1987]

§ 48-3. Short title.

The short title shall be "Utility Tax."

§ 48-4. Imposition of tax.

Pursuant to the authority granted by Article 5, § 5-530, of the Village Law of the State of New York, from and after January 1, 1988, there is hereby imposed:

- A. A tax equal to one per centum (1%) of the gross income of every utility doing business in the Incorporated Village of Saltaire which is subject to the supervision of the New York State Department of Public Service and which has an annual gross income in excess of five hundred dollars (\$500) except motor carriers or brokers subject to such supervision under Article 3-B of the Public Service Law, or any successor statute. [Amended 11-13-99 by L.L. No. 6, 1999]
- B. A tax equal to one per centum (1%) of the gross operating income of every other utility doing business in the Incorporated Village of Saltaire which has an annual gross operating income in excess of five hundred dollars (\$500).

§ 48-5. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

GROSS INCOME -- Includes:

- A. In the case of a utility engaged in selling telephone or telephone service, only receipts from local exchange service wholly consummated within the village.
- B. In the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated within the village.
- C. In the case of any utility other than described in Subsections A and B hereof:
 - (1) Receipts received in or by reason of any sale, conditional or otherwise (except sales hereinafter referred to with respect to which it is provided that profits from the sale shall be included in gross income) made or service rendered for ultimate consumption for use by the purchaser in the village, including cash, credits and property of any kind or nature (whether or not such sale is made or such service is rendered for profit) without any deduction therefrom on account of the cost of the property sold, the cost of the material used, labor or services or other costs, interest or discount paid or any other expense whatsoever.
 - (2) Profits from the sale of securities.

- (3) Profits from the sale of real property growing out of the ownership or use of or interest in such property.
- (4) Profits from the sale of personal property (other than property of a kind which would properly be included in the inventory of a taxpayer if on hand at the close of a period for which a return is made).
- (5) Receipts from interest, dividends and royalties, derived from sources within the village (other than such as are received from a corporation, a majority of whose voting stock is owned by the taxpaying utilities), without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof.
- (6) Profits from any transaction (except sales for resale and rentals) within the village whatsoever.

GROSS OPERATING INCOME -- Includes receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephone or telegraphy, or in or by reason of the furnishing of such consumption or use of gas, electric, steam, water, refrigerator, telephone or telegraph service in the village, including cash, credit and property of any kind or nature, without deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid or any other expense whatsoever.

PERSON -- Persons, corporations, companies, associations, joint-stock associations, copartnerships, estates, assignees or rents; any person acting in a fiduciary capacity or any other entity; and persons, their assignees, lessees, trustees or receivers, appointed by any court whatsoever or by any other means; except the state, municipality, public districts and corporations and associations organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures the benefit of any private shareholder or individual.

UTILITY -- Includes:

- A. Every person subject to the supervision of the State Department of Public Service, except:
 - (1) Persons engaged in the business of operating or leasing, sleeping and parlor railroad cars;
 - (2) Persons engaged in the business of operating or leasing railroads other than street surface, rapid transit, subway and elevated railroads; and

(3) Omnibus corporations subject to supervision under Article 3-A of the Public Service Law, or any successor statute. [Amended 11-13-1999 by L.L. No. 6, 1999]

B. Every person who furnishes gas, electric, steam, water, refrigerator, telephone or telegraph service by means of mains, pipes or wires, regardless of whether such activities are the main business of such persons or are only incidental thereto, or of whether use is made of the public streets.

§ 48-6. Applicability.

This Article and the tax imposed thereby shall:

- A. Apply only within the territorial limits of the Village of Saltaire.
- B. Not apply to and the tax shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Saltaire notwithstanding that some acts are necessarily performed with respect to such transaction within such limits.
- C. Be in addition to any and all other taxes and fees imposed by any other provisions of law.
- D. Apply to all subject income received on and after January 1, 1988.

§ 48-7. Disposition of revenues.

All revenues resulting from the imposition of the tax imposed by this Article shall be paid into the treasury of the Village and shall be credited to and deposited in the general fund of the Village.

§ 48-8. Collection; enforcement officer; rules and regulations; copies.

The Village Treasurer shall be the chief enforcement officer of this Article and shall make and be responsible for all collections hereunder. He or she shall also have the power and authority to make any rules or regulations or directives, not inconsistent with law, which in his or her discretion, are reasonably necessary to facilitate the administration of this Article and the collection of the taxes imposed hereby. Copies of all such rules and regulations and directives, as may from time to time be promulgated, shall be sent by registered mail to all utilities subject to this Article which register as such with the Village Treasurer. All such rules, regulations and directives shall be deemed a portion of this Article.

§ 48-9. Returns to be filed; contents.

- A. Time of filing. Every utility subject to a tax hereunder shall file on or before December 1 and June 1 a return for the six (6) calendar months preceding each return date, including any period for which the tax imposed hereby or amendment thereof is effective. However, any utility whose average gross income or gross average operating income for the aforesaid six (6) months period is less than three thousand dollars (\$3,000) may file a return annually on May 1 for the twelve (12) calendar months preceding each return date, including any period for which the tax imposed hereby or any amendment thereof is effective. Any utility, whether subject to tax under this Article or not, may be required by the Village Treasurer to file an annual return.
- B. Contents. Returns shall be filed with the Village Treasurer on a form to be furnished by the Treasurer for such purpose and shall show thereon the gross income or gross operating income for a period covered by the return and such other information, data or matter as the Village Treasurer may require to be included therein. Every return shall have annexed thereto a certification by the head of the utility making the same or of the owner or a copartner thereof, or of a principal corporate officer to the effect that the statements contained therein are true.

§ 48-10. Payment.

At the time of filing a return as required by this Article, each utility shall pay to the Village Treasurer the tax imposed hereby for the period covered by such return. Such tax shall be due and payable at the time of the filing of the return or if a return is not filed when due, on the first day when the return is required to be filed.

§ 48-11. Penalty for noncompliance; interest.

Any utility failing to file a return or a corrected return, or to pay any tax or any portion thereof within the time required by this Article, shall be subject to a penalty of five per centum (5%) of the amount of tax due, plus one per centum (1%) of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due; but the Village Treasurer, if satisfied that the delay was excusable, may remit all or any portion of such penalty.

§ 48-12. Tax to be utility operating cost.

The tax imposed by this Article shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others but shall constitute a part of the operating costs of such utility.

§ 48-13. Unfiled or unsatisfactory returns.

In case any return filed pursuant to this Article shall be insufficient or unsatisfactory to the Village Treasurer, he or she may require at any time a further or supplemental return, which shall contain any data that may be specified by him or her and, if a corrected or sufficient return is not filed within twenty (20) days after the same is required by notice from the Treasurer, or, if no return is made for any period, the Village Treasurer shall determine the amount due from such information as he or she is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. He or she shall give notice of such determination to the utility liable for such tax.

§ 48-14. Review of tax determinations.

Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if the proceeding is commenced within ninety (90) days after the giving of such notice of such final determination; provided, however, that any such proceeding under this Article 78 shall not be instituted unless the amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided by local law, ordinance or resolution, shall be first deposited and an undertaking filed in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

§ 48-15. Delivery of notice.

Any notice authorized or required under the provisions of this Article may be given by mailing the same to the utility for which it is intended, in a postpaid envelope, addressed to such utility at the address given by it in the last return filed by it under this Article, or if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the utility to which addressed. Any period of time, which is determined according to the provisions of this section by giving of notice, shall commence to run from the date of mailing of such notice.

§ 48-16. Refunds.

If, within one (1) year from the giving of notice of any determination or assessment of any tax or penalty, the person liable for the tax shall make application for a refund thereof, and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously charged, the Village Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Village Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination if the Village Treasurer, as hereinbefore provided, on his or her own motion, shall have reduced the tax or penalty or it shall have been established in a proceeding in the manner provided in the Civil Practice Law and Rules that such determination was erroneous or illegal. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of and the Village Treasurer may receive an additional evidence with respect thereto. After making his or her determination, the Village Treasurer shall give notice thereof, to the person interested, and he or she shall be entitled to commence a proceeding to review such determination in accordance with the provisions of the following section hereof.

§ 48-17. Review of refund determinations.

Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the Village Treasurer, and he or she shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under Article 78 of the Civil Practice Law and Rules; provided, however, that such proceeding is instituted within ninety (90) days after the giving of the notice of such denial, that a final determination of tax due was not previously made and that an undertaking is filed with the Village Treasurer in such amount and with such sureties as a Justice of the Supreme Court shall approve to the effect that if such proceedings be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

§ 48-18. Time limit for assessments.

Except in the case of a willfully false or fraudulent return with the intent to evade the tax, no assessment or additional tax shall be made with respect to taxes imposed under this Article after expiration of more than three (3) years from the date of filing of a return; provided, however, that where no return has been filed as required hereby, the tax may be assessed at any time.

§ 48-19. Powers and duties of Village Treasurer.

In addition to any other powers herein given, and in order to further payment of the tax imposed hereby, the Village Treasurer shall have the power to:

- A. Prescribe the form of all reports and returns required to be made hereunder.

- B. Take testimony and proofs under oath, with reference to any matter hereby entrusted to him or her.
- C. Subpoena and require the attendance of witnesses and the production of books, papers, records and documents.

§ 48-20. Enforcement.

Whenever any person shall fail to pay any tax or penalty imposed by this Article, the Village Attorney shall, upon the request of the Village Treasurer, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Village Treasurer. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the law and penalty imposed by § 186-a of the Tax Law is made a lien.

ARTICLE III
Collection of Property Taxes

§ 48-21. Title.

This Article shall be known as “Local Law providing for the Village of Saltaire to continue to enforce collection of Village property taxes pursuant to Title 3 of Article 14 of the Real Property Tax Law.”

§ 48-22. Collection of property taxes.

- A. Pursuant to Section 6 of Chapter 602 of the Laws of 1993, as amended by a chapter of the laws of 1994 , as proposed in legislative bill number S.8560-A, the Village of Saltaire hereby acts by local law, not subject to referendum, to provide that the collection of property taxes shall continue to be enforced pursuant to Title 3 of Article 14 of the Real Property Tax Law, as in effect on December 31, 1994.
- B. Upon adoption, and no later than October 1, 1994, a copy of this local law shall be filed with the New York State Board of Equalization and Assessment.
- C. This local law shall take effect on the same day as a chapter of the laws of 1994 takes effect as proposed in legislative bill number S. 8560-A, except that if S. 8560-A shall become a law prior to adoption of this local law, this local law shall take effect immediately.

§ 48-23. Waiver of Maximum Real Property Tax Increase [Added 3-1-2012 by L.L. 2, 1978]

- A. It is the intent of this local law to allow the Village of Saltaire to adopt a budget for the fiscal year commencing June 1, 2012 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.
- B. This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.
- C. The Board of Trustees of the Village of Saltaire, County of Suffolk, is hereby authorized to adopt a budget for the fiscal year commencing June 1, 2012 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.
- D. If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.
- E. This local law shall take effect immediately upon filing with the Secretary of State.