

**VILLAGE OF ELWOOD  
WILL COUNTY, ILLINOIS**

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**ORDINANCE NO. 986**

**AN ORDINANCE AMENDING TITLE IV, CHAPTER 33 OF THE CODE OF ORDINANCES OF  
THE VILLAGE OF ELWOOD, WILL COUNTY, ILLINOIS**

**(PERSONAL PROPERTY LEASE TRANSACTION TAX)**

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**ADOPTED BY  
THE PRESIDENT AND BOARD OF TRUSTEES  
OF THE  
VILLAGE OF ELWOOD**

This 17 day of August, 2011

Published in pamphlet form by authority of the President  
and Board of Trustees of the Village of Elwood on the 18<sup>th</sup> day of August, 2011.

Ordinance 986

**AN ORDINANCE ADOPTING  
A PERSONAL PROPERTY LEASE TRANSACTION TAX  
FOR THE VILLAGE OF ELWOOD, WILL COUNTY, ILLINOIS**

**WHEREAS**, the Village of Elwood is a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

**WHEREAS**, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, in furtherance of its home rule powers, it is necessary and desirable for the Village of Elwood to amend its ordinances regarding taxation by creating a personal property lease transaction tax.

**NOW, THEREFORE, BE IT ORDAINED** by the Village President and Village Board of the Village of Elwood, Illinois as follows:

**Section One:** The Municipal Code is hereby amended by adding a new Chapter 33.10 as follows:

**CHAPTER 33.10 Personal Property Lease Transaction Tax**

(A) The tax imposed by this Article shall be known as the "Personal Property Lease Transaction Tax" or the "Lease Transaction Tax" and is imposed in addition to all other taxes imposed by the Village of Elwood, or any other Municipal Corporation or political subdivision thereof.

(B) **Definitions:**

For the purpose of this Chapter, the following definitions shall apply:

- (1) "Village" means the Village of Elwood.
- (2) "Lease" or "rental" means any transfer of the possession or use of personal property, but not title or ownership, to a user for consideration, whether or not

designated as a lease, rental, license or by some other term, and includes a "non-possessory lease".

The term "non-possessory lease" means a lease or rental wherein use but not possession of the personal property is transferred and includes, but is not limited to, leased time on or use of any and all personal property not otherwise itself rented, such as leased time on or for the use of addressing machines, billboards, calculators, computers, computer software, copying equipment or data processing equipment, whether the time is fully or partially utilized.

The words "lease" or "rental" shall not be construed to include an agreement which constitutes a bona fide conditional sale of personal property. The primary consideration in determining whether an agreement is a conditional sale rather than a lease or rental is whether the lessee under the agreement both is required to make payments the sum of which is at least equal to the lessor's cost of the personal property and, under the terms of the agreement, has the option of taking title to or ownership of the personal property for nominal or no consideration after all payments required under the agreement have been made.

(3) "Lease or rental payment period" means the length of time or period of use that is covered by a single lease or rental payment as agreed to under the terms of the lease or rental agreement.

(4) "Lease price" or "rental price" means the consideration for the lease or rental of personal property, valued in money, whether received in money or otherwise, including cash, credits, property and services, determined without any deduction for costs or expenses whatsoever, but not including charges that are added to the price by a lessor on account of the tax imposed by this chapter or on account of any other tax imposed on the lessee for the lease or rental of personal property. The term "lease price" or "rental price" shall exclude separately stated charges not for the use of personal

property. If any separately stated charge is not optional, it shall be presumed unless proved otherwise that it is part of the charge for the use of the personal property.

(5) "Lessee" means any person who leases or rents personal property from another, whether the lease or rental price is paid by the lessee or by another person.

(6) "Lessor" means any person, including the assignee of any lease or rental agreement, who leases or rents personal property to users.

(7) "Person" means any individual, receiver, administrator, executor, conservator, trust, estate, partnership, joint venture, club, joint stock company, business trust, corporation, association, limited liability company, membership organization, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, or the State of Illinois or any political subdivision thereof, or the United States or any instrumentality thereof.

(8) "Personal property" means any and all property other than real property.

(9) "Use" means the exercise of any right to or power over personal property by a lessee incident to the lease or rental of that property including, but not limited to, the permanent or temporary storage, stationing or garaging of personal property by the lessee. "Use" by a lessee includes not only the use of personal property directly by the lessee but also the use of personal property by the lessee's agents, representatives or other authorized designees.

(C) Tax imposed.

(1) Except as otherwise provided in this chapter, a tax is imposed upon the lease or rental in the Village of personal property, and the privilege of using in the Village personal property that is leased or rented outside the Village. The incidence of the tax and the obligation to pay the tax are upon the lessee of the personal property.

(2) The rate of the tax shall be two percent (2%) of the lease or rental price. The tax shall be paid by the lessee at the time of each lease or rental payment, and each tax payment shall be determined by applying the tax rate to the lease or rental payment.

(3) For purposes of this chapter, the lease or rental of personal property shall be deemed to take place at the location where the lessee takes possession or delivery of the personal property.

(4) To prevent multiple-taxation, any lessee that uses in the city personal property leased or rented outside the city may claim a credit against the tax imposed by this chapter equal to any municipal tax properly due and actually paid to another municipality with respect to the lease or rental of such personal property. The credit may not exceed the amount of the tax imposed by this chapter that otherwise would be due.

(5) Nothing in this chapter shall be construed to impose a tax upon any transaction or privilege which, under the constitutions of the United States or the State of Illinois, may not be made the subject of taxation by the Village.

(D) Exempt lessees.

Notwithstanding any other provision of this chapter, the following lessees shall be exempt from the tax imposed by this chapter:

(1) A lessee that is a governmental body;

(2) A lessee that is an organization organized and operated exclusively for charitable, educational or religious purposes.

(E) Collection of tax.

(1) It shall be the duty of each lessor to collect the tax imposed by this chapter from the lessee at the time of each lease or rental payment, and to remit the tax to the Village. In the event that a lessor fails to collect or remit the tax required to be collected by this section, the lessor shall be liable to the Village for the amount of such tax.

(2) In the case of an assignment of a lease or rental agreement, the original lessor shall not be required to collect and remit tax which becomes due after the assignment, provided that the original lessor separately stated the amount of the tax on the face of the agreement.

(3) The tax imposed by this chapter, when collected or billed, shall be stated as a distinct item separate and apart from the lease or rental price of the personal property.

(F) Tax remittance and returns.

On or before the twentieth day of each calendar month, every lessor shall remit to the Village the tax attributable to lease or rental payments received during the immediately preceding calendar month and shall file with the Village a remittance return. The remittance return shall be in a form prescribed by the Village, containing such information as the Village may reasonably require.

(G) Maintaining books and records.

Every taxpayer shall keep accurate books and records, including original source documents and books of entry, denoting the activities or transactions that gave rise, or may have given rise to any tax liability or exemption under this Article. All such books and records shall, at all times during business hours, be subject to and available for inspection by the Village.

(H) Failure to pay tax.

If for any reason any tax is not paid when due, the lessor shall pay a penalty at the rate of twenty percent (20%) per month on the amount of tax which remains due but unpaid. Whenever any lessor fails to pay any tax as herein provided, the Village Attorney shall, upon the request of the corporate authorities of the Village, bring or cause to be brought an action to enforce the payment of the tax on behalf of the Village in any court of competent jurisdiction.

(l) Disposition of proceeds of tax.

All proceeds resulting from the imposition of the tax under this section, including penalties, shall be paid into the treasury of the Village and shall be credited to and deposited in the general corporate fund.

**Section Two.** This ordinance shall be in full force and effect, and shall be controlling, upon its passage and approval.

**Section Three:** All ordinances or parts of ordinances thereof in conflict with this ordinance are hereby repealed to the extent of any such conflict.

**Section Four:** Any Section or provision of this ordinance that is construed to be invalid or void shall not affect the remaining Sections or provisions which shall remain in full force and effect thereafter.

AYES:           4           (Mayor voting Aye)

NAYES:           0          

ABSENT:           3          

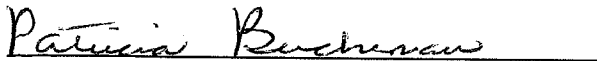
PRESENTED to the Board of Trustees of the Village of Elwood, Will County, Illinois, this 17<sup>th</sup> day of August, 2011.

PASSED by the Board of Trustees of the Village of Elwood, Will County, Illinois, this 17th day of August, 2011.

SIGNED by the President of the Board of Trustees of the Village of Elwood, Will County, Illinois, this 18<sup>th</sup> day of August, 2011.



  
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William Offerman, Village President  
Village of Elwood

  
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Patricia Buchenau, Village Clerk  
Village of Elwood

STATE OF ILLINOIS        )  
                                  )  
COUNTY OF WILL         )        SS

**CLERK'S CERTIFICATE**

I, Patricia Buchenau, the duly qualified and acting Village Clerk of the Village of Elwood, Will County, Illinois, do hereby certify that attached hereto is a true and correct copy of an ordinance entitled:

**ORDINANCE NO. 986**

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which ordinance was duly adopted by said Board of Trustees at a regular meeting held on the 17th day of August, 2011.

I do further certify that a quorum of said Board of Trustees was present at said meeting, and that the Board of Trustees complied with all the requirements of the Illinois Open Meetings Act.

**IN WITNESS WHEREOF**, I have hereunto set my hand this 17<sup>th</sup> day of August, 2011.



*Patricia Buchenau*  
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Patricia Buchenau, Village Clerk