

## Chapter 236

### TAXATION

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[**HISTORY:** Adopted by the Board of Trustees of the Village of St. Johnsville as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Assessments — See Ch. 4.

#### ARTICLE I Senior Citizens Exemption

[Adopted 9-12-1967; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 236-1. Exemption granted.

A partial exemption from taxation to the extent of 50% of the assessed valuation of real property which is owned by certain persons with limited income who are 65 years of age or older meeting the requirements set forth in § 467 of the Real Property Tax Law is hereby granted.

§ 236-2. Maximum income level.

The maximum income level for the fifty-percent exemption is established at \$9,000.

## ARTICLE II

## Utility Tax

[Adopted 9-25-1973 by L.L. No. 1-1973]

**§ 236-3. Tax imposed.<sup>1</sup>**

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to 1% of its gross income from and after the first day of October 1973 is hereby imposed upon every utility doing business in the Village of St. Johnsville which is subject to the supervision of the State Department of Public Service, which has a gross income for the 12 months ending May 31 in excess of \$500, except motor carriers or brokers subject to supervision in accordance with applicable state law, and a tax equal to 1% of its gross operating income from and after the first day of October 1973 is hereby imposed upon every other utility doing business in the Village of St. Johnsville which has a gross operating income for the 12 months ending May 31 in excess of \$500, which taxes shall have application only within the territorial limits of the Village of St. Johnsville, and shall be in addition to any and all other taxes and fees imposed by any other provision of law. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of St. Johnsville, New York, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

**§ 236-4. Definitions.**

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

**GROSS INCOME** — Means and includes 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 the profits from the sale shall be included in gross income), made or service rendered for ultimate consumption or use by the purchaser in the Village of St. Johnsville, 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 materials used, labor or services or other costs, interest or discount paid or any other expense whatsoever; also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profits from the sale of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made); also receipts from interest, dividends and royalties derived from sources within the Village of St. Johnsville, other than such as are received from a corporation a majority of whose voting stock is owned by the taxpaying utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof; and also profits from any transaction (except sales for resale and rentals) within the Village of St. Johnsville whatsoever; provided, however, that the words "gross income" shall include, in the case of a utility engaged in selling telephony or telephone service, only receipts from local exchange service wholly consummated within the Village of St. Johnsville, and in the case of a utility engaged in selling telegraphy or telegraph service, only receipts from transactions wholly consummated within the Village of St. Johnsville.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

**GROSS OPERATING INCOME** — Means and 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, telephony or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigeration, telephone or telegraph service in the Village of St. Johnsville, including cash, credits and property of any kind or nature, without any 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 expenses whatsoever.

**PERSON** — Persons, corporations, companies, associations, joint-stock associations, copartnerships, estates, assignee of 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 and public districts.

**UTILITY** — Includes every person subject to the supervision of the State Department of Public Service, except persons engaged in the business of operating or leasing sleeping and parlor railroad cars or operating railroads other than street surface, rapid transit, subway and elevated railroads, and also includes every person (whether or not such person is subject to such supervision) who sells gas, electricity, steam, water, refrigeration, telephone or telegraph service by means of mains, pipes or wires, regardless of whether such activities are the main business of such person or are only incidental thereto or of whether use is made of the public streets.

**§ 236-5. Records to be maintained.**

Every utility subject to tax under this article shall keep such records of its business and in such form as the Treasurer of the Village of St. Johnsville may require, and such records shall be preserved for a period of three years, except that the Treasurer of said Village may consent to their destruction within that period or may require that they be kept longer.

**§ 236-6. Filing of returns.**

Every utility subject to tax hereunder shall file annually, on or before the 25th day of October, a return for the 12 calendar months preceding such return date or any portion thereof for which the tax imposed hereby is effective; provided, however, that in lieu of the annual return required by the foregoing provisions, any utility may file quarterly, on or before September 25, December 25, March 25 and June 25, a return for the three calendar months preceding each such return date, and in case of the first such return, for all preceding calendar months during which the tax imposed hereby was effective. Every return shall state the gross income or gross operating income for the period covered thereby. Returns shall be filed with the Treasurer of the Village of St. Johnsville on a form to be furnished by him for such purpose and shall contain such other data, information or matter as he may require to be included therein. The Treasurer of said Village, in order to insure payment of the tax imposed, may require at any time a further or supplemental return, which shall contain any data that may be specified by him, and he may require any utility doing business in the Village of St. Johnsville to file an annual return, which shall contain any data specified by him, regardless of whether the utility is subject to tax under this article. Every return shall have annexed thereto an affidavit of the head of the utility making the same, or of the owner or of a

copartner thereof, or of a principal officer of the corporation, if such business is conducted by a corporation, to the effect that the statements contained therein are true.

**§ 236-7. Time of payment.**

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

**§ 236-8. Insufficient returns.**

- A. In case any return filed pursuant to this article shall be insufficient or unsatisfactory to the Treasurer of the Village of St. Johnsville, and if a corrected or sufficient return is not filed within 20 days after the same is required by notice from him, or if no return is made for any period, the Treasurer of said Village shall determine the amount of tax due from such information as he is able to obtain and, if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax unless the person against whom it is assessed shall, within 30 days after the giving of notice of such determination, apply to the Treasurer of the Village for a hearing, or unless the Treasurer of said Village, of his own motion, shall reduce the same. After such hearing, the Treasurer of said Village shall give notice of his decision to the person liable for the tax. Such decision may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York if application therefor is made within 90 days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the Treasurer of the Village of St. Johnsville and an undertaking filed with him, 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 applicant will pay all costs and charges which may accrue in the prosecution of such proceeding, or, at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order.
- B. Except in the case of a willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return; provided, however, that where no return has been filed as required by this article, the tax may be assessed at any time.

**§ 236-9. Notice.**

Any notice authorized or required under the provisions of this article may be given by mailing the same to the person for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him in the last return filed by him 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 person to whom addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence to run from the date of mailing of such notice.

**§ 236-10. Failure to file.**

Any person failing to file a return or 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 5% of the amount of tax due, plus 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 Treasurer of the Village of St. Johnsville, for cause shown, may extend the time for filing any return and, if satisfied that the delay was excusable, may remit all or any portion of the penalty fixed by the foregoing provisions of this section.

**§ 236-11. Refunds.**

If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Treasurer of the Village of St. Johnsville or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Treasurer of said Village 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 Treasurer of said Village. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Treasurer of said Village as hereinbefore provided unless the Treasurer of said Village, after a hearing as hereinbefore provided or of his own motion, shall have reduced the tax or penalty or unless it shall have been established in a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this article. 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 Treasurer of said Village shall give notice thereof to the person interested, and he shall be entitled to an order to review such determination under said Article 78 of the Civil Practice Law and Rules of the State of New York, subject to the provision hereinbefore contained relating to the granting of such an order.

**§ 236-12. Failure to pay tax.**

Whenever any person shall fail to pay any tax or penalty imposed by this article, the Village Attorney shall, upon the request of the Treasurer of the Village of St. Johnsville, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Treasurer of said Village. 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 tax and penalty imposed by § 186-a of the Tax Law are made a lien.

**§ 236-13. Tax to constitute part of 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.

**§ 236-14. Rules and regulations for administration.**

In the administration of this article, the Treasurer of the Village of St. Johnsville shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his powers and the performance of his duties and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his official duty under this article, and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

**§ 236-15. Disclosure.**

- A. Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Treasurer of the Village of St. Johnsville or any agent, clerk or employee of the Village of St. Johnsville to divulge or make known in any manner the amount of gross income or gross operating income or any particulars set forth or disclosed in any return under this article. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Village of St. Johnsville in an action or proceeding under the provisions of this article, or on behalf of the State Tax Commission in an action or proceeding under the provisions of the Tax Law of the State of New York, or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of and may admit in evidence as much of said returns or of the facts shown thereby as is pertinent to the action or proceeding and no more.
- B. Nothing herein shall be construed to prohibit the delivery to a person or his duly authorized representative of a copy of any return filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof or the publication of delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this article, together with any relevant information which in the opinion of the Treasurer of said Village may assist in the collection of such delinquent taxes, or the inspection by the Village Attorney or other legal representative of the Village of St. Johnsville of the return of any person who shall bring action to set aside or review the tax based thereon or against whom an action has been instituted in accordance with the provisions of this article.
- C. Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding \$500 or by imprisonment not exceeding three months, or both, and if the offender be an officer, agent, clerk or employee of the Village of St. Johnsville, he shall

be dismissed from office and shall be incapable of holding any office or employment for the Village of St. Johnsville, New York, for a period of two years thereafter.

- D. Notwithstanding any provisions of this article, the Treasurer of said Village may exchange with the chief fiscal officer of any city or any other Village in the State of New York information contained in returns filed under this article, provided that such city or Village grants similar privileges to the Village of St. Johnsville, and provided that such information is to be used for tax purposes only, and the Treasurer of said Village shall, upon request, furnish the State Tax Commission with any information contained in such returns.

**§ 236-16. Disposition of taxes and penalties.**

All taxes and penalties received by the Treasurer of the Village of St. Johnsville under 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.

ARTICLE III

**Alternative Veterans Exemption**  
**[Adopted 10-2-1984 by L.L. No. 3-1984]**

**§ 236-17. Purpose.**

The purpose of this article is to provide that no exemption from real property taxes shall be granted pursuant to § 458-a of the Real Property Tax Law of the State of New York.

**§ 236-18. No exemption granted.**

Pursuant to the provisions of Subdivision 4 of § 458-a of the Real Property Tax Law of the State of New York, no exemption from real property taxes shall be granted pursuant to § 458-a of the Real Property Tax Law for purposes of real property taxes levied for the Village of St. Johnsville, New York.

