

..T

A RESOLUTION TO SUPPORT LITIGATION AND LEGISLATION TO ADDRESS  
CURRENT ISSUES RELATING TO THE COLLECTION OF SALES TAX RECEIPTS

..B

WHEREAS, the proper accounting and collection of sales tax receipts is critical to the fiscal health of the Village of Orland Park and its ability to provide necessary services to its residents, taxpayers and the local businesses, their employees and customers; and

WHEREAS, it has recently come to light that at least two municipalities, the City of Kankakee and the Village of Channahon, have entered into sales tax rebate agreements with private tax consultants representing businesses located in Cook County and in certain municipalities such as the Village of Orland Park, Illinois; and

WHEREAS, because sales tax is assessed at the acceptance location in Illinois, the tax consultants have established sham sales offices that allow their business clients to record the sales transactions as having occurred in those two municipalities when the actual sales are taking place in a Cook County municipality; and

WHEREAS, this scheme is intended to unlawfully divert the municipal share of the statewide sales tax to the City of Kankakee and the Village of Channahon, denying it to the municipalities where the participating businesses actually conduct business and receive government services and depriving these communities of legitimate tax revenues under its own locally-imposed retailers' occupation tax; and

WHEREAS, the City of Kankakee and the Village of Channahon benefit by taking a percentage of the tax on each sale, leaving a small portion of the collected tax for the tax consultants and giving most of what is collected back to the businesses, thus depriving municipalities, where the sales transactions are actually occurring, of their rightful sales tax revenue; and

WHEREAS, municipalities incur and invest tremendous resources in constructing and maintaining infrastructure and providing public services to support "bricks and mortar" businesses and their customers who use said infrastructure and services; and

WHEREAS, a lawsuit has been filed in the Circuit Court of Cook County by the Regional Transportation Authority (RTA) known as *The Regional Transportation Authority, et al. v. City of Kankakee, et al.*; Civil action File No. 11-CH-29744 (the "Sales Tax Diversion Lawsuit") which seeks to prevent the improper diversion of sales tax receipts from locations where the sales occur to locations which offer significant sales tax rebates while having only illusory involvement with such sales; and

WHEREAS, the President and Village Board of the Village of Orland Park have determined that the Village should join the RTA as named plaintiff in the Sales Tax Diversion Lawsuit to protect the citizens and taxpayers of the Village of Orland Park and have authorized the Village attorneys to join the lawsuit and to take all steps necessary to protect the Village's interests;

WHEREAS, in addition to the problem of sales tax dollars being siphoned away from municipalities where the sales transactions are actually occurring, depriving local governments of the funds they need to provide services used by those businesses, in the 21<sup>st</sup> Century, an increasingly large percentage of retail sales are conducted through the internet; and

WHEREAS, the 1967 *Bellas Hess* and the 1992 *Quill* Supreme Court decisions denied states the authority to require the collection of sales and use taxes by out-of-state sellers that have no physical presence in the taxing state; and

WHEREAS, although Illinois residents are legally required to pay the sales tax resulting from online purchases, this requirement is difficult to enforce; and

WHEREAS, the combined weight of the inability to collect sales and use taxes on remote sales through traditional businesses and the tax erosion due the electronic commerce, threatens the future viability of the sales tax as a stable revenue source for state and local governments; and

WHEREAS, the Village of Orland Park believes there is a need for and is in support of additional state and federal legislation addressing the aforementioned sales tax problems.

NOW, THEREFORE, Be It Resolved by the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

1. That the Village Attorney has been authorized and directed to take all steps necessary and appropriate to cause the Village to be added as an additional plaintiff in the Sales Tax Diversion Lawsuit and to protect the Village's interests.
2. That the Village of Orland Park supports and encourages state and federal legislative and other efforts to ensure state and local governments, including the Village of Orland Park, are receiving their fair and full amount of sales tax revenue based on current sales without imposing new taxes on residents.
3. The Village officials, including the Village Manager and staff, are authorized to render such assistance and execute such documents as may be necessary to carry out the terms of this Resolution.

This Resolution shall be in full force and effect upon its adoption as provided by law.