

Chapter 22

BUSINESSES*

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***Cross references**—Alcoholic beverages, ch. 6; amusements and entertainment, ch. 10; taxation, ch. 62; utilities, ch. 70; commercial districts, app. A, § 72; wholesale and industrial districts, app. A, § 73.

State law reference—Local taxes and fees, Ga. Const. art. IX, § IV, ¶ I.

ARTICLE I. IN GENERAL

Secs. 22-1—22-30. Reserved.

ARTICLE II. OCCUPATION TAXES AND REGULATORY FEES*

Sec. 22-31. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative fee means the component of the occupation tax which approximates the reasonable cost of handling and processing the occupation tax.

Employee means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income tax, or state income tax from such individual's compensation, or whose employer issues to such individual for purposes of documenting compensation a form I.R.S. W-2, but not a form I.R.S. 1099.

Location or office means a fixed place located within the city from which a person conducts business, but shall not include a work site located in the city for less than six months for the purpose of serving a single customer or project.

Occupation tax means a tax levied for revenue purposes on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business in the city.

Occupation tax certificate means a document issued by the city acknowledging payment of the occupation tax and administrative fee.

Practitioners of professions and occupations means those individuals listed in O.C.G.A. § 48-13-9(c)(1)—(18) but does not include a practitioner who is an employee of a business if such business pays an occupation tax.

(Ord. of 12-4-1995(2), § 1(32-1))

Cross reference—Definitions generally, § 1-2.

Sec. 22-32. Administrative fee.

A nonprorated, nonrefundable administrative fee of \$25.00 is required on all occupation tax accounts for the initial registration, annual renewal or reopening of such accounts.

(Ord. of 12-4-1995(2), § 1(32-2))

Sec. 22-33. Occupation tax levied; limitations.

(a) An occupation tax based upon number of employees in the state is levied upon businesses and practitioners of professions and occupations with one or more locations or offices within the corporate limits of the city and, pursuant to O.C.G.A. § 48-113-7, upon

***Cross reference**—Taxation, ch. 62.

State law reference—Business and occupation taxes, O.C.G.A. § 48-13-1 et seq.

out-of-state businesses with no location or office in the city but with employees or agents engaging in substantial efforts to solicit business or serve customers or clients in the city in accordance with the following schedule:

First 10 employees, per employee	\$6.00
Next 10 employees, per employee	4.50
Next 10 employees, per employee	3.38
Next 10 employees, per employee	2.58
Next 10 employees, per employee	1.90
Additional employees, per employee.....	1.42

(b) The city shall not require the payment of more than one occupation tax for each location of a business or practitioner.

(c) A business or practitioner which is subject to an occupation tax by another local government and claiming an exemption from or limitation to the occupation tax imposed by this article shall submit documentation as to current payment of the occupation tax to the other local government and the basis of such tax.

- (1) If a business or practitioner with no location or office in the state provides to the city proof of payment of a local business or occupation tax in another state which purports to tax the business' or practitioner's sales or services in this state, the business or practitioner shall be exempt from this occupation tax.
- (2) A business or practitioner with no location or office in the state shall only be required to pay occupation tax to the local government in the state where the largest dollar volume of business is done or service is performed by such business or practitioner. This limitation shall only apply when the business or practitioner has provided to the city satisfactory proof as to the applicability of this subsection.
- (3) A business or practitioner which has locations in the state subject to occupation tax by more than one local government in the state shall only be subject to occupation tax by the city for the number of employees who are employed within the corporate limits of the city. This limitation shall only apply when the business or practitioner has provided to the city satisfactory proof of current payment of the occupation tax of the other local government.
- (4) If an employee works for the same business or practitioner in more than one municipal corporation or county and the business or practitioner submits proof of this, the employee shall be counted as an employee in the city only if the city is the jurisdiction where such employee works for the longest period of time within the calendar year.

(d) If a business or practitioner commences business in the city on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be 50 percent of the tax imposed for the entire year. The administrative fee shall not be reduced.

(e) If a business or practitioner does not know how many employees which are the basis of this occupation tax will be employed by the business or practitioner during the current calendar year, the business or practitioner shall file a return estimating the number of employees which are the basis of this occupation tax. If such estimate is not accurate, then no later than December 31 the business or practitioner shall file an amended return indicating the actual number of employees during the previous calendar year. Any overpayment of the occupation tax may be credited to the business or practitioner's account for future tax liability, offset against other amounts due and owing to the city for any reason or paid to the business or practitioner at the discretion of the city clerk.

(f) Real estate brokers shall be subject to occupation tax pursuant to this article only if they maintain a principal or branch office in the city.

(Ord. of 12-4-1995(2), § 1(32-4))

Sec. 22-34. Occupation tax certificate.

Every business, practitioner and location subject to payment of the occupation tax levied by this article shall display a current occupation tax certificate in a conspicuous place at the location for which such certificate was issued. If the taxpayer does not have a permanent location within the city, the occupation tax certificate shall be shown to any police officer upon request.

(Ord. of 12-4-1995(2), § 1(32-5))

Sec. 22-35. Practitioners of professions and occupations.

Practitioners of professions and occupations shall pay the occupation tax as set forth in section 22-33 or shall pay an occupation tax of \$150.00 per practitioner. On the tax return for 1995 or such later time as the practitioner first commences business in the city, the practitioner shall elect a method of taxation. Such election shall be changed for subsequent calendar years only by a written request filed by the practitioner on or before February 1 of the year in which the election is to be changed.

(Ord. of 12-4-1995(2), § 1(32-6))

Sec. 22-36. Exemptions.

(a) No occupation tax shall be levied on the following:

- (1) Any practitioner whose office is maintained by and who is employed in practice exclusively by the United States, the state, a municipality or county of the state, or instrumentality of the United States, the state or a municipality or county of the state;
- (2) Those businesses regulated by the state public service commission;
- (3) Those electrical service businesses organized under O.C.G.A. tit. 46, ch. 3;
- (4) Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness;

- (5) Nonprofit, agricultural product cooperative marketing associations pursuant to O.C.G.A. § 2-10-105;
- (6) Motor common carriers pursuant to O.C.G.A. § 46-7-15;
- (7) Persons purchasing guano, meats, meal, flour, bran, cottonseed, or cottonseed meal or hulls in carload lots for distribution among the purchasers for use and not sale pursuant to O.C.G.A. § 48-5-355;
- (8) Pursuant to O.C.G.A. § 48-5-356 for persons selling or introducing into the city agricultural products or livestock, including animal products, raised in this state when the sale and introductions are made by the producer of the product and the sale is made within 90 days of the introduction of the product into the city;
- (9) Depository institutions pursuant to O.C.G.A. § 48-6-93; or
- (10) Any business where the levy of such occupation tax is prohibited by the laws of the state or the United States.

(b) The exemptions and limitations contained in this article shall not be construed to repeal or otherwise affect in any way any franchise fees, business taxes or other fees or taxes otherwise allowed by law.

(Ord. of 12-4-1995(2), § 1(32-7))

Sec. 22-37. Evidence of state registration when required.

Each person who is licensed under O.C.G.A. title 43 by the examining boards of the secretary of state's office shall provide evidence of proper and current state licensure before any city occupation tax certificate may be issued.

(Ord. of 12-4-1995(2), § 1(32-8))

Sec. 22-38. Evidence of qualification required if applicable.

(a) Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency or any other regulatory matter shall first, before the issuance of an occupation tax certificate, show evidence of such qualification.

(b) Any business required to submit an annual application for continuance of the business shall do so before the registration is issued.

(Ord. of 12-4-1995(2), § 1(32-9))

Sec. 22-39. Filing returns; other information required or requested.

(a) On or before January 1 of each year, an individual, business or practitioner subject to this article shall file with the city clerk on a form approved by and available from the city a signed return attesting to the number of employees of such business or practitioner during the calendar year.

(b) Individuals, businesses and practitioners doing business in the city shall submit to the city clerk or make available within 30 days such information as may be required or requested by the city to determine the applicability and amount of the occupation tax or to facilitate levying or collection of the occupation tax.

(Ord. of 12-4-1995(2), § 1(32-10))

Sec. 22-40. Confidentiality.

Information provided by a business or practitioner to the city for the purpose of determining the applicability and amount of the occupation tax or levying or collecting the occupation tax is confidential and exempt from disclosure under O.C.G.A. § 50-18-70 et seq. Such information may be provided to the governing authority of another local government for occupation tax purposes or pursuant to court order or for the purpose of collecting occupation tax or prosecution for failure or refusal to pay occupation tax.

(Ord. of 12-4-1995(2), § 1(32-11))

Sec. 22-41. Date due; penalty.

(a) Any occupation tax due pursuant to this article shall be due and payable annually on January 1. If any person commences business or initially engages in a regulated activity in the city after January 1 in any year, the tax and/or fee shall be due and payable on the date of the commencement of the business or regulated activity.

(b) Any individual, business or practitioner subject to any occupation tax imposed by this article which is unpaid for 90 days after the date on which payment was due shall be subject to a penalty of ten percent of the tax or fee due.

(Ord. of 12-4-1995(2), § 1(32-12))

Sec. 22-42. Enforcement; violations.

(a) It is the duty of the city clerk to administer and enforce the provisions of this article, to perform all functions necessary to administer and enforce this article, and to summon violators of this article to appear before the municipal court. The city clerk may issue executions against individuals, businesses and practitioners for taxes and fees which are due and owing.

(b) The city clerk shall issue executions against individuals, businesses and practitioners for taxes and fees which are due and owing. Such executions shall bear interest at the rate authorized by O.C.G.A. § 48-2-40 or, if such statute should be repealed, one percent per month. The lien shall cover the property of the individual, business or practitioner liable for payment of the delinquent occupation tax and become fixed as of the date and time the occupation tax became delinquent. The execution shall be levied by the city clerk upon property of the delinquent taxpayer located in the city; and sufficient property shall be advertised and sold to pay the amount of the execution, including penalty, interest and costs. All other related proceedings shall be as provided by this Code, the Charter of the city, and the laws of the state. The defendants at execution shall have the rights of defense, by affidavit of illegality of the tax or otherwise as provided by the Charter and the laws of the state in regard to tax executions.

(c) When a nulla bona entry has been entered upon an execution, the person against whom the entry is made shall not be allowed or entitled to have or collect any fees or charges whatever for services rendered after the entry of the nulla bona. If, at any time after the nulla bona entry has been made, the person against whom the execution issues pays the tax in full together with all interest and costs accrued on the tax, the person may collect any fees and charges due to such person as if such person had never defaulted in the payment of the tax.

(d) Individuals, businesses and practitioners who fail or refuse to pay any occupation tax charged pursuant to this article shall be subject to a fine not to exceed a maximum of ten times the amount of tax that was required by the business under this article.

(e) Individuals, businesses and practitioners who fail or refuse to make a timely or truthful tax return or make available truthful and accurate information the city requests or requires for determining applicability or amount of occupation tax, or for levying or collecting such occupation tax, shall be subject to suspension of the right to conduct business in the city.

(f) All persons subject to the occupation tax imposed by this article shall be required to file for and pay such tax or fee. For failure to do so, any officers or agents soliciting for or obtaining for such person business shall be subject to the same penalty as other persons, businesses or practitioners who fail to obtain or make a return for or pay the applicable occupation tax.

(Ord. of 12-4-1995(2), § 1(32-13))

Sec. 22-43. Public hearing.

The city shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the occupation tax rate specified in section 22-33.

(Ord. of 12-4-1995(2), § 1(32-14))

Sec. 22-44. Prior ordinance.

To the extent that any occupation taxes or regulatory fees are owed pursuant to an ordinance passed prior to this article, such amounts remain due and owing; and the provisions of that prior ordinance will remain in effect with respect to such unpaid occupation taxes until such time as they are paid in full.

(Ord. of 12-4-1995(2), § 1(32-15))

Chapters 23—25

RESERVED

