Chapter 54

TAXATION

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ARTICLE I.

IN GENERAL

Secs. 54-1--54-30. Reserved.

ARTICLE II.

OCCUPATION TAX*

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* **Editors Note:** Ordinance adopted November 14, 2006, amended art. II in its entirety to read as herein set out. Former art. II, §§ 54-31--54-56, pertained to occupational tax, and derived from Ord. of 12-18-1995, §§ 19-36--19-61.

Sec. 54-31. Required.

Each person engaged in any business, trade, profession or occupation in the county, whether with a location in the county or in the case of an out-of-state business with no location in the state exerting substantial efforts within the state pursuant to O.C.G.A. § 48-13-7, shall pay an occupation tax for such business, trade, profession or occupation, which tax and any applicable registration shall be displayed in a conspicuous place in the place of business, if the taxpayer has a permanent business location in the county. If the taxpayer has no permanent business location in the county, such business tax registration shall be shown to any police officer of the county upon request.
(Ord. of 11-14-2006)

Sec. 54-32. 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 a component of an occupation tax that approximates the reasonable cost of handling and processing the occupation tax.

Dominant line means the type of business, within a multiple-line business, from which the greatest amount of income is derived.

Gross receipts means the total revenue of the business or practitioner for the period, including without limitation the following:

(1) Total income without deduction for the cost of goods or expenses incurred;

(2) Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness;

(3) Proceeds from commissions on the sale of property, goods or services;

(4) Proceeds from fees for services rendered; and

(5) Proceeds from rent, interest, royalty or dividend income.

Gross receipts shall not include the following:

(1) Sales, use or excise tax;

(2) Sales returns, allowances and discounts;

(3) Interorganization sales or transfers between or among the units of a parent-subsidiary controlled group of corporations as defined by 26 USC 1563(a)(2);

(4) Payments made to a subcontractor or an independent agent; and

(5) Governmental and foundation grants, charitable contributions, or the interest income derived from such funds received by a nonprofit organization that employs salaried practitioners otherwise covered by this article, if such funds constitute 80 percent or more of the organization's receipts.

Location of office shall not include a temporary work site which serves a single customer or project.

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

Person includes sole proprietors, corporations, partnerships, nonprofits or any other form of business organization.

Practitioner of profession or occupation is one who by state law requires state licensure regulating such profession or occupation.

Practitioner of professions and occupations shall not include a practitioner who is an employee of a business if the business pays an occupation tax.

Regulatory fees means payments, whether designated as license fees, permit fees or by another name, required by a local government as an exercise of its police power and as a part of or an aid to regulation of an occupation, profession or business. The amount of a regulatory fee shall approximate the reasonable cost of the actual regulatory activity performed by the county. A regulatory fee may not include an administrative fee. Development impact fees as defined by O.C.G.A. § 36-71-2(8) or other costs or conditions of zoning or land development are not regulatory fees.
(Ord. of 11-14-2006)

Cross References: Cross references: Definitions generally, § 1-2.

Sec. 54-33. Administrative and regulatory fee structure; occupation tax structure.

A nonprorated, nonrefundable administrative fee as set forth in the schedule of fees and charges on file in the office of the county clerk shall be required on all business and occupation tax accounts for the initial setup, renewal or reopening of these accounts.
(Ord. of 11-14-2006)

Sec. 54-34. Occupation tax levied; restrictions.

An occupation tax shall be levied upon those businesses and practitioners of professions and occupations with one or more locations or offices in the unincorporated part of the county and/or upon the applicable out-of-state businesses with no location or office in the state pursuant to O.C.G.A. § 48-13-7 based upon the following criteria:

People Employed	Tax Liability
0--5	$100.00
6--15	175.00
16--30	275.00
31--50	375.00
51 or more	475.00

(Ord. of 11-14-2006)

Sec. 54-35. Paying occupation tax of business with no location in the state.

Registration and assessment of an occupation tax is imposed on those businesses and practitioners of professions with no location or office in the state if the business's largest dollar volume of business in the state is in the county and the business or practitioner:

(1) Has one or more employees or agents who exert substantial efforts within the jurisdiction of the county for the purpose of soliciting business of serving customers or clients; or

(2) Owns personal or real property that generates income and is located within the jurisdiction of the county.

(Ord. of 11-14-2006)

Sec. 54-36. Each line of business to be identified on business registration.

The business registration of each business operated in the county shall identify the dominant line of business the business conducts.
(Ord. of 11-14-2006)

Sec. 54-37. The number of businesses considered to be operating in the county.

Where a person conducts business at more than one fixed location, each location shall be considered a separate business for the purpose of the occupation tax.
(Ord. of 11-14-2006)

Sec. 54-38. Professionals as classified in state law.

Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(1)--(18) shall be limited to a tax of $400.00 or their liability established by application of the tax basis used for other businesses, whichever is less.
(Ord. of 11-14-2006)

Sec. 54-39. Practitioners exclusively practicing for a government.

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, instrumentalities of the United States, the state, or a municipality or county of the state shall not be required to obtain a license or pay an occupation tax for that practice.
(Ord. of 11-14-2006)

Sec. 54-40. Purpose and scope of tax.

The occupation tax levied in this article is for revenue purposes only and is not for regulatory purposes, nor is the payment of the tax made a condition precedent to the practice of any such profession, trade or calling. The occupation tax only applies to those businesses and occupations covered by the provisions of O.C.G.A. §§ 48-13-5--48-13-26. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.
(Ord. of 11-14-2006)

Sec. 54-41. When tax due and payable; effect of transacting business when tax delinquent.

(a) Each occupation tax shall be for the calendar year. Registration and occupation taxes shall be payable January 1 of each year and shall, if not paid by March 1 of each year, be subject to a 1.5 percent per month (18 percent per year) penalty for delinquency. On any new profession, trade or calling begun in the county, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a penalty imposed for delinquency as prescribed by this article. The tax registration provided for in this section shall be issued by the county; and if any person whose duty it is to obtain a registration shall, after the registration or occupation tax becomes delinquent, transact or offer to transact in the county any kind of profession, trade or calling subject to this article without having first obtained the registration, such offender shall, upon conviction by the county magistrate judge, be punished by a fine not to exceed $500.00.

(b) In addition to the remedies prescribed in subsection (a) of this section, the sheriff may proceed to collect in the same manner as provided by law for tax executions.
(Ord. of 11-14-2006)

Sec. 54-42. Exemption on grounds that business is operated for charitable purposes.

No business on which a business registration or occupation tax is levied by this article shall be exempt from registration or tax on the grounds that such business is operated for a charitable purpose unless 50 percent or more of the entire proceeds from such business are devoted to such purpose.
(Ord. of 11-14-2006)

Sec. 54-43. Evidence of state registration required if applicable; state registration to be displayed.

(a) Each person who is licensed by the secretary of state pursuant to O.C.G.A. Title 43 shall provide evidence of proper and current state licensure before the county registration may be issued.

(b) Each person who is licensed by the state shall post the state license in a conspicuous place in the licensee's place of business and shall keep the license there at all times while the license remains valid.
(Ord. of 11-14-2006)

Sec. 54-44. Evidence of qualification required if applicable.

Any business required to obtain health permits, bonds, certificates or qualification, certificates of competency, or any other regulatory matter shall first, before the issuance of a county business registration, show evidence that such requirements have been met.
(Ord. of 11-14-2006)

Sec. 54-45. Liability of officers and agents; registration required; failure to obtain.

All persons subject to the occupation tax levy pursuant to this article shall be required to obtain the necessary registration for the business as described in this article; and in default of registration, the officer or agent soliciting for or representing such persons shall be subject to the same penalty as other persons who fail to obtain a registration. Every person commencing business in the county on or after January 1 of each year shall likewise obtain the registration before commencing the business; and any person transacting or offering to transact in the county any kind of business, trade, profession or occupation without first having so obtained the registration, such person shall be subject to penalties provided in this article.
(Ord. of 11-14-2006)

Sec. 54-46. Penalty.

Any person violating any provisions of this article shall, upon conviction before the magistrate judge, be subject to section 1-19.
(Ord. of 11-14-2006)

Sec. 54-47. County subpoena and arrest powers.

The county and its duly designated officers and inspectors or its successors shall be classified as deputy marshal-business inspectors with full subpoena and arrest powers in conjunction with any violation pertaining to this article.
(Ord. of 11-14-2006)

Sec. 54-48. Businesses not covered by this article.

The following businesses are not covered by the provisions of this article but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the state or by local law:

(1) Those businesses regulated by the state public service commission.

(2) Those electrical service businesses organized under O.C.G.A. § 46-3-1 et seq.

(3) Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.

(4) Cooperative marketing associations governed by O.C.G.A. § 2-10-105.

(5) Insurance companies governed by O.C.G.A. § 33-8-8 et seq.

(6) Motor common carriers governed by O.C.G.A. § 46-7-15.

(7) Those businesses governed by O.C.G.A. § 48-5-355, businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls.

(8) Agricultural products and livestock raised in the state governed by O.C.G.A. § 48-5-356.

(9) Depository financial institutions governed by O.C.G.A. § 48-6-93.

(10) Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.

(11) Flea markets and similar businesses that are only open for the weekends or shorter periods of time.

(Ord. of 11-14-2006)

Sec. 54-49. Occupation tax inapplicable where prohibited by law or provided for pursuant to other existing law.

An occupation tax shall not apply to the gross receipts of any part of a business where such levy is prohibited or exempted by the laws of the state or of the United States.
(Ord. of 11-14-2006)

Sec. 54-50. More than one place or line of business.

Where a business is operated at more than one place or where the business includes more than one line, such business shall be required to obtain the necessary registration for each location and line and pay an occupation tax in accordance with the prevailing taxing method and tax rate for each location and line.
(Ord. of 11-14-2006)

Sec. 54-51. Amendment, repeal of article.

This article shall be subject to amendment or repeal, in whole or in part, at any time; and no such amendment or repeal shall be construed to deny the right of the county to assess and collect any of the taxes or other charges prescribed. The amendment may increase or lower the amounts and tax rates of any occupation and may change its classification. The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the county of additional occupation taxes upon the same person, property or business.
(Ord. of 11-14-2006)

Sec. 54-52. Applications of article to prior ordinance.

This article does not repeal or affect the force of any part of any ordinance heretofore passed where taxes levied under such prior ordinance have not been paid in full. So much and such parts of ordinances heretofore and hereinafter passed as provided for the issuing and enforcing of execution for any tax or assessment required by such ordinances, or that imposed fines or penalties for the nonpayment of such tax, or

for failure to pay regulatory fees provided for in such ordinances, or failure to comply with any other provisions of this article, shall continue and remain in force until such tax, regulatory fee or assessment shall be fully paid.
(Ord. of 11-14-2006)

Sec. 54-53. Provisions to remain in full force and effect until changed by board.

This article shall remain in full force and effect until changed by amendment adopted by the board of commissioners. All provisions relating to any form of tax levied in this article shall remain in full force and effect until such taxes have been paid in full.
(Ord. of 11-14-2006)

Sec. 54-54. Requirement of public hearing before tax increase.

The board of commissioners shall conduct at least one public hearing before adopting any ordinance or resolution that will increase the rate of occupation tax as set forth in this article.
(Ord. of 11-14-2006)

Sec. 54-55. Option to establish exemption or reduction in occupation tax.

The board of commissioners may by ordinance or resolution provide for an exemption or reduction in occupation tax to one or more types of businesses or practitioners of occupations or professions as part of a plan for economic development or attracting or encouraging selected types of businesses or practitioners of selected occupations or professions. Such exemptions or reductions in occupation tax shall not be arbitrary or capricious, and the reasons shall be set forth in the minutes of the board or a plan.
(Ord. of 11-14-2006)

Sec. 54-56. Conflicts between specific and general provisions.

When there is an apparent conflict in this article between specific and general provisions, it is the intention of this article that the specific shall control.
(Ord. of 11-14-2006)

Secs. 54-57--54-90. Reserved.

ARTICLE III.

INSURERS

Sec. 54-91. 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:

Insurer means a company authorized to transact business in the class of insurance designated in O.C.G.A. § 33-3-5.

Cross References: Definitions generally, § 1-2.

Sec. 54-92. Life insurers' license fees.

There is levied an annual license fee upon each life insurer doing business within the county as set forth in the schedule of fees and charges on file in the office of the county clerk. For each separate business location in excess of one not covered by this section, which is operating on behalf of such insurers within the county, there is levied a license fee as provided in such schedule of fees and charges.

Sec. 54-93. License fee for life insurers insuring certain risks at additional business location.

For each separate business location, not otherwise subject to a license fee under this article, that is operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales, offers, solicits or takes application for insurance through a licensed agent of a life insurer for life insurance, such insurer shall pay an additional annual license fee as set forth in the schedule of fees and charges on file in the office of the county clerk.

Sec. 54-94. Life insurance agency license fees; independent life insurance agencies, brokers not otherwise licensed.

There is levied an annual license fee upon independent agencies and brokers for each separate business location from which a life insurance business is conducted and which is not subject to the company license fee imposed by section 54-92 as set forth in the schedule of fees and charges on file in the office of the county clerk.

Sec. 54-95. Gross premiums tax--Life insurers.

There is levied an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the county in an amount equal to one percent of the gross direct premiums received during the calendar year in accordance with O.C.G.A. § 33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by section 54-92.

Sec. 54-96. Same--All other insurers.

There is levied an annual tax upon each insurer, other than an insurer transacting business in the class of insurance designated in O.C.G.A. § 33-3-5(1), doing business within the county in an amount equal to 2 1/2 percent of the gross direct premiums received during the calendar year, in accordance with O.C.G.A. § 33-8-8.2. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-8.2(a).

Sec. 54-97. Due date for license fees.

License fees imposed in this article shall be due and payable on January 1 of each year.

Sec. 54-98. License fees, all insurers doing business in the city.

There is levied an annual license fee upon each insurer doing business within the county as set forth in the schedule of fees and charges on file in the office of the county clerk. For each separate business location in excess of one operating on behalf of such insurers within the county, there is levied a license fee as provided in such schedule of fees and charges.

Secs. 54-99--54-125. Reserved.

ARTICLE IV.

FINANCIAL INSTITUTIONS

Sec. 54-126. Business license tax.

Pursuant to O.C.G.A. § 48-6-93, there is levied an annual business license tax upon state and national banking associations, federal savings and loan associations and state building and loan associations at the rate of 0.25 percent of the gross receipts of such institutions. Gross receipts shall mean gross receipts as defined in O.C.G.A. § 48-6-93. Notwithstanding any other provisions of this article, the minimum amount of business license tax due from any depository financial institution pursuant to this article shall be $1,000.00 per year.

Sec. 54-127. Filing of return.

Each depository financial institution within the county shall file a return of its gross receipts with the county on March 1 of the year following the year in which such gross receipts were measured. Such returns shall be in the manner and in the form prescribed by the commissioner of the department of banking and shall be based upon the allocation method set forth in O.C.G.A. § 48-6-93(d). The tax levied pursuant to this article shall be assessed and collected based upon the information provided in such return.

Sec. 54-128. Due date.

The due date of taxes levied by this article shall be April 1 of each year.