

TITLE XI:

**BUSINESS
REGULATIONS**

Chapter 112

**Occupation Taxes and
Administrative Fees**

CHAPTER 112: OCCUPATION TAXES AND ADMINISTRATIVE FEES

Section

- 112.01 Definitions
- 112.02 Administrative fee
- 112.03 Occupation tax levied; limitations
- 112.04 Occupation tax certificate
- 112.05 Practitioners of professions and occupations
- 112.06 Exemptions
- 112.07 Evidence of state registration when required
- 112.08 Evidence of qualification required if applicable
- 112.09 Filing returns; other information required or requested
- 112.10 Confidentiality
- 112.11 Date due
- 112.12 Enforcement
- 112.13 Public hearing
- 112.14 Previous taxes
- 112.15 Financial institutions business license tax

§ 112.01 DEFINITIONS

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (A) ADMINISTRATIVE FEE. The component of the occupation tax which approximates the reasonable cost of handling and processing the occupation tax.
- (B) EMPLOYEE. Any individual who, for compensation, exerts substantial effort within the State of Georgia for the purpose of soliciting business or serving customers or clients.
- (C) LOCATION or OFFICE. A fixed place located within the County from which a person conducts business but shall not include a work site located in the County for less than six months for the purpose of serving a single customer or project.
- (D) OCCUPATION TAX. A tax levied for revenue purposes on persons, partnerships, corporations or other entities for engaging in an occupation, profession or business in the County.
- (E) OCCUPATION TAX CERTIFICATE. A document issued by the County acknowledging payment of the occupation tax and administrative fee.
- (F) PRACTITIONERS OF PROFESSIONS AND OCCUPATIONS. Those individuals listed in Ga. Code § 48-13-9 but does not include a practitioner who is an employee of a business if such business pays an occupation tax.

(Ord. passed 12-14-94)

Statutory reference:

Statutory definitions, see Ga. Code § 48-13-5

§ 112.02 ADMINISTRATIVE FEE

A non-prorated, nonrefundable administrative fee of \$35.00 is required on all occupation tax accounts for the initial registration, annual renewal or reopening of such accounts.
(Ord. passed 12-14-94)

§ 112.03 OCCUPATION TAX LEVIED; LIMITATIONS

- (A) An occupation tax based upon the number of employees in the State of Georgia is levied upon businesses and practitioners of professions and occupations with one or more locations or offices within the territorial boundaries of the County and pursuant to Ga. Code, § 48-13-7, upon out-of-state businesses with no location or office in the County but with employees or agents engaging in substantial efforts to solicit business or serve customers or clients in the State of Georgia in accordance with the following schedule:
- (1) Non-state licensed trade: Minimum \$35.00 plus \$1.00 per employee;
 - (2) State licensed trade: Minimum 100 plus \$1.00 per employee or the election set forth in Section 112.05 for practitioners of professions and occupations.
- (B) The County 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 chapter 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 Georgia provides to the county proof of payment of a local business or occupation tax in another state which purports to tax the business's or practitioner's sales or services in this state, then the business or practitioner shall be exempt from this occupation tax.
 - (2) A business or practitioner with no location or office in Georgia shall only be required to pay occupation tax to the local government in Georgia 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 county satisfactory proof as to the applicability of this subsection.
 - (3) A business or practitioner which has locations in Georgia subject to occupation tax by more than one local government in Georgia shall only be subject to occupation tax by the County for the number of employees who are employed within the County. This limitation shall only apply when the business or practitioner has provided to the County satisfactory proof of current payment of the occupation tax of the other local government(s).
 - (4) If an employee works for the same business or practitioner in more than one county and the business or practitioner submits proof of this, the employee shall be counted as an employee in the County only if the County 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 County on or after July 1 in any year, the occupation tax for the remaining portion of the year shall be 50% 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, then 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 June 30 of the following year 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 County for any reason or paid to the business or practitioner at the discretion of Building and Zoning Administrator.

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

(Ord. passed 12-14-94)(Ord. amended 08-11-10)

§ 112.04 OCCUPATION TAX CERTIFICATE

Every business, practitioner and location subject to payment of the occupation tax levied by this chapter 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 county, the occupation tax certificate shall be shown to any law enforcement officer or the Zoning Administrator upon request.

(Ord. passed 12-14-94)(Ord. Amended 08-11-10)

§ 112.05 PRACTITIONERS OF PROFESSIONS AND OCCUPATIONS

Practitioners of professions and occupations as defined in this chapter shall pay the occupation tax as set forth in § 112.03 or shall pay an occupation tax of \$100.00 per practitioner. On the tax return for 1995 or such later time as the practitioner first commences business in the County, 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. passed 12-14-94)(Ord. Amended 08-11-10)

§ 112.06 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 Georgia Public Service Commission;
- (3) Those electrical service businesses organized under Ga. Code, Title 46, Chapter 3;
- (4) Any farm operation for the production from or on the land of agricultural products, but not including any agribusiness.

(B) The exemptions and limitations contained in this chapter 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. passed 12-14-94)

§ 112.07 EVIDENCE OF STATE REGISTRATION WHEN REQUIRED

Each person who is licensed under Ga. Code, Title 43 by the Examining Boards of the Secretary of State's office shall provide evidence of proper and current state licensure before any County occupation tax certificate or regulatory fee certificate may be issued.

(Ord. passed 12-14-94)

§ 112.08 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 or a regulatory fee 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. passed 12-14-94)

§ 112.09 FILING RETURNS; OTHER INFORMATION REQUIRED OR REQUESTED

(A) On or before January 1 of each year, an individual, business or practitioner subject to this chapter shall file with the Zoning Administrator on a form approved by and available from the County 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 County shall submit to the Building and Zoning Administrator or make available within the County such information as may be required or requested by the County to determine the applicability and amount of the occupation tax or to facilitate levying or collection of the occupation tax.

(Ord. passed 12-14-94)(Ord. amended 08-11-10)

§ 112.10 CONFIDENTIALITY

Information provided by a business or practitioner to the County 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 Ga. Code, Title 50, Chapter 18, Article 4. 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. passed 12-14-94)

§ 112.11 DATE DUE

(A) Any occupation tax due pursuant to this chapter shall be due and payable annually by January 1. In the event that any person commences business or initially engages in a regulated activity in the county 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 chapter which is unpaid for 30 days after the date on which payment was due shall be subject to a penalty of 10% of the tax or fee due.

(Ord. passed 12-14-94)(Ord. Amended 08-11-10)

§ 112.12 ENFORCEMENT

- (A) It is the duty of the Zoning Administrator to administer and enforce the provisions of this chapter, to perform all functions necessary to administer and enforce this chapter and to summon violators of this chapter to appear before the Magistrate Court. The Zoning Administrator may issue executions against individuals, businesses and practitioners for taxes and fees which are due and owing.
 - (B) The Zoning Administrator 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 Ga. Code, § 48-2-40 or, if such statute should be repealed, 1% 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 Zoning Administrator of the County upon property of the delinquent tax or fee payer located in the County and sufficient property shall be advertised and sold to pay the amount of the execution, including penalty, interest and costs. All other proceedings in relation thereto shall be as provided by the code, local laws that apply to the County and the laws of Georgia. The defendants at execution shall have the rights of defense, by affidavit of illegality of the tax or otherwise as provided by the laws of Georgia 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 whatsoever 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 chapter shall be cited for violation of this chapter and shall be tried in the Magistrate Court of Pike County. In the event the person is convicted of the charge against him or her, then, and in such event, that person may be fined an amount not to exceed \$1,000 or imprisoned for a period not to exceed 60 days, or both, at the discretion of the Judge. These criminal provisions are authorized by Ga. Code, § 15-10-60.
 - (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 County requests or requires for determining applicability or amount of occupation tax or for levying or collecting such occupation tax shall have their right to conduct business in the County suspended until they have fully complied with the County's request or requirement.
 - (F) All persons subject to the occupation tax imposed by this chapter 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 such person's business shall be subject to the same penalty as other persons, businesses or practitioners who fail to obtain make a return for or pay the applicable occupation tax or regulatory fee.
- (Ord. passed 12-14-94)(Ord. Amended 08-11-10)

§ 112.13 PUBLIC HEARING

After January 1, 1996, the County shall conduct at least one public hearing before adopting any ordinance or resolution which will increase the occupation tax rate specified in § 112.03.

(Ord. passed 12-14-94)

§ 112.14 PREVIOUS TAXES

To the extent that any occupation taxes are owed pursuant to an ordinance passed prior to this chapter, 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. passed 12-14-94)

§ 112.15 FINANCIAL INSTITUTIONS BUSINESS LICENSE TAX

(A) In accordance with Ga. Code, § 48-6-93, there is levied for the year 1984 and for each year thereafter an annual business license tax upon all depository financial institutions located within Pike County at a rate of 0.25% of the gross receipts of the depository financial institutions. Gross receipts shall mean gross receipts as defined in Ga. Code, § 48-6-93. Depository financial institutions shall mean state and national banks, state building and loan associations and federal savings and loan associations.

(B) The minimum annual amount of business license tax due from any depository financial institution pursuant to division (A) of this section shall be \$1,000.00.

(C) Pursuant to Ga. Code, § 48-6-93(c), each depository financial institution subject to this tax shall file a return of its gross receipts with the Board of Commissioners of Pike County on March 1 of the year following the year in which such gross receipts are measured. The return shall be in the manner and in the form prescribed by the Commissioner of the Department of Revenue based on the allocation method set forth in Ga. Code, § 48-6-93(d). The Board of Commissioners of Pike County shall assess and collect the tax levied pursuant to this section based upon the information provided in said return.

(D) Taxes levied pursuant to this section shall be due no later than 30 days after filing of the return prescribed by division (C) of this section unless extended by the Board of Commissioners.

(E) The Clerk of Pike County is directed to forward a copy of this section to each depository financial institution in Pike County and to the home office of each such depository financial institution if located outside the County.

(Ga.Code § 46-6-93) (Res. passed 11-9-83)

