

**AN ORDINANCE
BY: FINANCE-EXECUTIVE COMMITTEE**

**AN ORDINANCE AMENDING THE CITY OF ATLANTA
OCCUPATION TAX ORDINANCE BY THE ADDITION AND
DELETION OF CERTAIN LANGUAGE FOR THE PURPOSE
OF CLARIFYING THE OPERATION OF SEC. 30-63;
CONFIRMING THE EFFECT OF CITY CODE SEC. 2-105 ON
THIS ORDINANCE; AND FOR OTHER PURPOSES.**

WHEREAS, pursuant to O.C.G.A. § 48-13-2 *et seq*, the City of Atlanta levies and assesses an occupation tax on each person engaged in any business, trade, profession or occupation located within the jurisdiction of the city and on each person whose business, trade, profession or occupation, is carried on, operated or performed within the jurisdiction of city; and

WHEREAS, this tax is a significant source of revenue for the City which can only be collected in compliance with the provisions of state law; and

WHEREAS the City desires to amend certain sections of the Occupation Tax Ordinance to clarify the operation of Section 30-63; and

WHEREAS in order to remove any question as to whether Sec. 2-105 of the City Code applies to this ordinance, certain language is incorporated in this ordinance to clarify the Council's position.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1: That Sec. 63 of Chapter 30, Article III, of the Code of Ordinances of the City of Atlanta, Georgia, as amended (the "Atlanta City Code") be and is hereby amended in the manner set forth in Exhibit "A," such that the language marked as stricken by the method herein indicated (~~stricken language~~) is deleted and the language underlined is added, such that Sec. 30-63 shall read as set forth in Exhibit "B".

SECTION 2: This change to the text of the City Code does not impose a new fee or charge, such that Section 2-105 of the City Code does not apply.

SECTION 3: That this ordinance shall become effective after it is signed by the Mayor or as otherwise provided in the City Charter and shall repeal and replace conflicting ordinances.

EXHIBIT "A" – CHANGES NOTED

Sec. 30-63. Professional occupation tax.

(a) Classification. Practitioners of professions as described in O.C.G.A. § 48-13-9(c)(~~1~~)
~~(18)~~ are as follows:

- (1) Lawyers;
- (2) Physicians;
- (3) Osteopaths;
- (4) Chiropractors;
- (5) Podiatrists;
- (6) Dentists;
- (7) Optometrists;
- (8) Psychologists;
- (9) Veterinarians;
- (10) Landscape architects;
- (11) Land surveyors;
- (12) Practitioners of physiotherapy;
- (13) Public accountants;
- (14) Embalmers;
- (15) Funeral directors;
- (16) Civil, mechanical, hydraulic or electrical engineers;
- (17) Architects;
- (18) Marriage and family therapists, social workers and professional counselors;
- (19) Dealers of motor vehicles, as defined in paragraph (1) of O.C.G.A. 10-1-622;
- (20) Owners or operators of bona fide coin operated amusement machines, as defined in O.C.G.A. 48-17-1 and owners or operators of businesses where bona fide coin operated amusement machines are available for commercial use and play by the public, provided that such amusement machines have affixed current stickers showing payment of annual permit fees, in accordance with O.C.G.A. 48-17-9;
- (21) Merchants or dealers as defined in O.C.G.A. 48-5-354 as to their deliveries to businesses and practitioners of professions and occupations in areas zoned for commercial use; and
- (22) Any ~~other~~ business, profession, or occupation, not specifically listed herein, for which state licensure or registration is required by state law shall not be charged a regulatory fee, unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments but such businesses shall be required to pay the occupation tax based on gross receipts combined with profitability ratios and classes as set forth in section 30-62.

(b) Determination of rate or amount of payment: At the time of the payment of the tax, the professional practitioners listed in subsection (a) subpart (1) through (21) of this section shall elect as their entire occupation tax one (1) of the following:

- (1) The occupation tax based on gross receipts combined with profitability ratios and classes as set forth in section 30-62. ~~In~~ If the practitioner of the profession elects to calculate the occupation tax due based on gross receipts combined with profitability ratios and classes as set forth in section 30-62, a fee of \$75.00 is imposed to pay the cost to process the payment.

(2) A fee of \$400.00 per practitioner. Practitioners paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.

(c) Compliance with this article shall not be a precondition to the practice of any profession, listed herein, or licensed by the state. The sole purpose for the imposition of all fines, penalties and interest provided in this article is to support and enhance the collection of the taxes levied by this article. No administrative fee shall be charged to the practitioner of any profession listed in this section in the event that the practitioner requests to file any documents with the city prior to the time of payment of the tax. It shall be the responsibility of the taxpayer to inform the business tax division of their claim of entitlement to be treated as a practitioner of a profession under state law where the interpretation of this article in such a manner would entitle such taxpayer to a different application of the business tax ordinance or any rules and regulations promulgated by the chief financial officer.

(d) Practitioners of professions may be asked to provide information as to the location where they may be served with notices or citations issued in support of the enforcement of this article and upon the failure or refusal to do so, the city shall direct the notices or citations to the address listed with the appropriate state licensing agency.

EXHIBIT "B" – NEW TEXT AS AMENDED

Sec. 30-63. Professional occupation tax.

(a) Classification. Practitioners of professions as described in O.C.G.A. § 48-13-9(c) are as follows:

- (1) Lawyers;
- (2) Physicians;
- (3) Osteopaths;
- (4) Chiropractors;
- (5) Podiatrists;
- (6) Dentists;
- (7) Optometrists;
- (8) Psychologists;
- (9) Veterinarians;
- (10) Landscape architects;
- (11) Land surveyors;
- (12) Practitioners of physiotherapy;
- (13) Public accountants;
- (14) Embalmers;
- (15) Funeral directors;
- (16) Civil, mechanical, hydraulic or electrical engineers;
- (17) Architects;
- (18) Marriage and family therapists, social workers and professional counselors;
- (19) Dealers of motor vehicles, as defined in paragraph (1) of O.C.G.A.10-1-622;
- (20) Owners or operators of bona fide coin operated amusement machines, as defined in O.C.G.A. 48-17-1 and owners or operators of businesses where bona fide coin operated amusement machines are available for commercial use and play by the public, provided that such amusement machines have affixed current stickers showing payment of annual permit fees, in accordance with O.C.G.A. 48-17-9;
- (21) Merchants or dealers as defined in O.C.G.A. 48-5-354 as to their deliveries to businesses and practitioners of professions and occupations in areas zoned for commercial use; and
- (22) Any business, profession, or occupation, not specifically listed herein, for which state licensure or registration is required by state law shall not be charged a regulatory fee, unless the state law regulating such business, profession, or occupation specifically allows for regulation by local governments but such businesses shall be required to pay the occupation tax based on gross receipts combined with profitability ratios and classes as set forth in section 30-62.

(b) Determination of rate or amount of payment: At the time of the payment of the tax, the professional practitioners listed in subsection (a) subpart (1) through (21) of this section shall elect as their entire occupation tax one (1) of the following:

- (1) The occupation tax based on gross receipts combined with profitability ratios and classes as set forth in section 30-62. If the practitioner of the profession elects to calculate the occupation tax due based on gross receipts combined with profitability ratios and classes as set forth in section 30-62, a fee of \$75.00 is imposed to pay the cost to process the payment.

(2) A fee of \$400.00 per practitioner. Practitioners paying according to this subsection shall not be required to provide information to the local government relating to the gross receipts of the business or practitioner. The per-practitioner fee applies to each person in the business who qualifies as a practitioner under the state's regulatory guidelines and framework.

(c) Compliance with this article shall not be a precondition to the practice of any profession, listed herein, or licensed by the state. The sole purpose for the imposition of all fines, penalties and interest provided in this article is to support and enhance the collection of the taxes levied by this article. No administrative fee shall be charged to the practitioner of any profession listed in this section in the event that the practitioner requests to file any documents with the city prior to the time of payment of the tax. It shall be the responsibility of the taxpayer to inform the business tax division of their claim of entitlement to be treated as a practitioner of a profession under state law where the interpretation of this article in such a manner would entitle such taxpayer to a different application of the business tax ordinance or any rules and regulations promulgated by the chief financial officer.

(d) Practitioners of professions may be asked to provide information as to the location where they may be served with notices or citations issued in support of the enforcement of this article and upon the failure or refusal to do so, the city shall direct the notices or citations to the address listed with the appropriate state licensing agency.

RCS# 1605
12/03/07
2:38 PM

Atlanta City Council

REGULAR SESSION

CONSENT II

REFER

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 2
EXCUSED: 1
ABSENT 0

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Hall	E Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	NV Willis
Y Winslow	Y Muller	Y Sheperd	NV Borders

CONSENT II