

**CHAPTER 7
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**CHAPTER 7
OCCUPATION TAX ORDINANCE**

ARTICLE 1

7-101 Occupation Tax Required; Occupation Tax Required for Business Dealings in Bryan County. For the year 1996 and succeeding years thereafter, each person engaged in any business, trade, profession, or occupation in Bryan County, Georgia, whether with a location in Bryan County or in the case of an out-of-state business with no location in Georgia, exerting substantial efforts within the state pursuant to O.C.G.A. 48-13-7, shall pay an occupation tax for said 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 Bryan County, Georgia. If the taxpayer has no fixed business location in Bryan County, Georgia, such business tax registration shall be shown to the Code Enforcement Officer or this Officer's deputies or to any police officer of said Bryan County, Georgia, upon request.

7-102 Construction of Terms; Definitions.

1. Wherever the term Bryan County is used herein, such term shall be construed to mean Bryan County, Georgia; wherever the term County is used herein, it shall be construed to mean Bryan County Georgia.

2. As used in this ordinance, the term:

(1) Administrative Fee means a component of an occupation tax which approximates the reasonable cost of handling and processing of the occupation tax.

(2) 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.

(3) Gross Receipts - the total revenue of the business or practitioner for the period, including without limitation to the following:

a. Total income without deduction for the cost of goods or expenses incurred.

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- b. Gain from trading in stocks, bonds, capital assets, or instruments of indebtedness.
- c. Proceeds from commissions on the sale of property, goods, or services.
- d. Proceeds from fees for services rendered.
- e. Proceeds from rent, interest, royalty, or dividend income.

(4) Gross Receipts shall not include the following:

- a. Sales, use, or excise tax.
- b. Sales returns, allowances, and discounts.
- c. Interorganizational sales or transfers between or among the units of a parent-subsidiary controlled group of corporations as defined by 26 U.S.C. 1563 (a) (1), or between or among the units of a brother-sister controlled group of corporations as defined by 26 U.S.C. 1563 (a)(2) or between or among wholly owned partnerships or other wholly owned entities;
- d. Payments made to a subcontractor or an independent agent; and
- e. Governmental and foundation grants, charitable contributions, or the interest income derived from such funds received by a nonprofit organization which employs salaried practitioners otherwise covered by this Ordinance, if such funds constitute 80 percent or more of the organization's receipts; and
- f. Proceeds from sales to customers outside the state.

(5) Location or office shall include any structure or vehicle where a business, profession or occupation is conducted, but shall not include a temporary or construction work site which serves a single customer or project or a vehicle used for sales or delivery by a business or practitioner of a profession or occupation which has a location or office.

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

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(7) Regulatory fees means payments, whether designated as license fees, permit fees, or by another name, which are 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 paragraph 8 of O.C.G.A. 36-71-2 or other costs or conditions of zoning or land development are not regulatory fees.

(8) Dominant line means the type of business, within a multiple-line business, which is the major and principal source of income of such business.

(9) Practitioner of profession or occupation is one who by state law requires state licensure regulating such profession or occupation as designated by O.C.G.A. 48-13-9(c), but shall not include a practitioner who is an employee of a business, if the business pays an occupation tax.

7-103 Administrative and Regulatory Fee Structure.

1. A non-prorated, non-refundable administrative fee of \$15.00 shall be required on all business and occupation tax accounts for the initial start-up, annual renewal, or reopening of those accounts.
2. A regulatory fee will be imposed as provided under O.C.G.A. 48-13-9 on those applicable businesses. The regulatory fee levied in this Ordinance is an exercise of the police power of Bryan County. A regulatory fee may not include an administrative fee.
3. The regulatory fee schedule for persons in occupations and professions is set forth in the Code of Ordinances of Bryan County.

7-104 Occupation Tax Levied; Restrictions.

1. 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 Georgia pursuant to O.C.G.A. 48-13-7 based upon the following criteria:

- (1) The number of employees of the business or practitioner.

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2. Occupation tax schedule:

(1) Number of Employees - The tax rate determined by number of employees for each business, trade, profession, or occupation is as follows and will be developed and updated from time to time by the Board of Commissioners of Bryan County:

Employees	Tax Liability
0-3	\$75
4-9	\$100
10-19	\$200
20-29	\$300
30-39	\$400
40-49	\$500
50 or more	\$600

7-105 Paying Occupation Tax of Business with No Location in Georgia; Exemption for Tax Paid in Other State.

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

(1) has one or more employees, principals, representatives or agents who exert substantial efforts within the jurisdiction of Bryan County for the purpose of soliciting business or serving customers or clients; or

(2) owns personal or real property which generates income and which is located within the jurisdiction of Bryan County.

2. Any business or practitioner of a profession with no location or office in the State of Georgia shall be exempt from assessment of an occupation tax under this Ordinance if such business or practitioner submits proof of payment of a local business or occupation tax in another state on the business's or practitioner's sales or services in the State of Georgia.

7-106 Each Line of Business to be Identified on Business Registration. The business registration of each business operated in the local government's jurisdiction shall identify the line or lines of business that the business conducts. No business shall conduct any line

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of business without first having that line of business registered with the Code Enforcement Officer and that line of business being noted by the Code Enforcement Officer upon the business registration form which is to be displayed by the business owner.

7-107 The Number of Businesses Considered to be Operating in Bryan County. Where a person conducts business at more than one fixed location, each location or place shall be considered a separate business for the purpose of occupation tax.

7-108 Professionals as Classified in O.C.G.A. 48-13-9 (c), paragraphs 1 through 18.

1. Practitioners of professions as described in O.C.G.A. 48-13-9(c)(1) through(18) shall elect as their entire occupation tax one of the following:

(1) The occupation tax based on number of employees as set forth in Sec. 7-104 of this ordinance.

(2) A fee of \$200.00 per practitioner who is licensed to provide the service, such tax to be paid at the practitioner's office or location; provided, however, that a practitioner paying according to this paragraph 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.

(3) This election is to be made on an annual basis and must be done by February 1 of each year.

7-109 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.

7-110 Purpose and Scope of Tax. The occupation tax levied herein 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 which are covered by the provisions of O.C.G.A. 48-13-5 to 48-13-28. All other applicable businesses and occupations are taxed by the local government pursuant to the pertinent general and/or local law and ordinance.

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7-111 When Tax Due and Payable; Effect of Transacting Business When Tax Delinquent.

1. Each such occupation tax shall be for the calendar year 1996 and succeeding calendar year thereafter unless otherwise specifically provided. Said registration and occupation tax shall be payable January 1 of each year and shall, if not paid by February 1 of each year, be subject to penalties and interest for delinquency as prescribed in this Ordinance. On any new profession, trade or calling begun in Bryan County in 1995 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a 25% penalty imposed. The tax registration herein provided for shall be issued by the Code Enforcement Officer and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said registration or occupation tax becomes delinquent, transact or offer to transact, in Bryan County any of the kind of profession, trade, or calling subject to this Ordinance without having first obtained said registration, such offender shall, upon conviction by the Judge of the Magistrate Court of Bryan County, be punished by a fine not to exceed \$1,000.00, or imprisonment not to exceed 60 days, either or both in the discretion of the Judge of the Magistrate Court of Bryan County..

2. In addition to the above remedies, the Code Enforcement Officer may proceed to collect in the same manner as provided by law for tax executions.

7-112 Allocation of Gross Receipts of Business with Multiple Intra- or Interstate Locations.

1. For those businesses that have multiple locations inside and outside of the County where the gross receipts can be allocated to each location, the gross receipts used to determine the occupation tax assessed will be those gross receipts attributed to each county location. Where the dollar amount of gross receipts attributed locally cannot be determined in those businesses with multiple locations, the total gross receipts will be divided by the total number of locations in Bryan County and elsewhere and allotted to those locations. Upon request, the business or practitioner with a location or office situated in more than one jurisdiction shall provide to the County the following:

(1) financial information necessary to allocate the gross receipts of the business or practitioner; and

(2) information relating to the allocation of the business's or practitioner's gross receipts by other local governments.

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2. Where the business has locations outside of the County and taxation is levied for a criteria other than gross receipts in the other local governments, the County shall not assess more than the allotted share of gross receipts for the local operation.

3. For those businesses with multiple locations inside and outside of the County and taxation is levied by a criteria other than gross receipts in the other local governments, the County shall not assess more than the allotted share of gross receipts for the local operation.

7-113 Exemption on Grounds That Business is a Nonprofit Organization. Any nonprofit organization shall be exempt from the levy of occupational tax under this Ordinance.

7-114 Evidence of State Registration Required if Applicable; State Registration to be Displayed.

1. Each person who is licensed by the Secretary of State pursuant to Title 43 of the Official Code of Georgia Annotated shall provide evidence of proper and current state licensure before the County registration may be issued.

2. 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.

7-115 Evidence of Qualification Required if Applicable. 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 a County business registration, show evidence that such requirements have been met.

7-116 Liability of Officers and Agents; Registration Required; Failure to Obtain. All persons subject to the occupation tax levy pursuant to this Ordinance shall be required to obtain the necessary registration for said business as described in this Ordinance, and in default thereof 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 Bryan County after January 1 of each year shall likewise obtain the registration herein provided for before commencing the same; and any person transacting, or offering to transact in Bryan county any of the kinds of business, trade, profession, or occupation that require registration without first having so obtained said registration, shall be subject to penalties provided thereof.

7-117 When Registration and Tax Due and Payable; Effect of Transacting Business

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When Tax Delinquent.

1. Each such registration shall be for the calendar year in which the registration was obtained unless otherwise specifically provided. There is hereby imposed a penalty upon each business which fails to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before February 1 of each year, and on February 1 each year hereafter. Every person commencing business in Bryan County after January 1 of each year shall obtain the registration required before commencing such business. Any person transacting or offering to transact in Bryan County any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided in 7-118 of this Ordinance. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and maybe collected by the remedies herein provided for collection of the occupation tax, and shall have the same lien and priority as the occupation tax to which the penalty is applied.

2. The registration herein provided for shall be issued by the Board of Commissioners and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transacts or offers to transact, in Bryan County any of the kind of business, trade, profession, or occupation without having first obtained said registration, such offender shall be subject to the penalties provided thereof.

7-118 Penalty for Ordinance Violation. Any person violating any provisions of this Ordinance shall, upon conviction before the Judge of Magistrate Court of Bryan County, be fined in an amount not exceeding \$1,000.00 or imprisoned not exceeding 60 days either or both, in the discretion of the Judge of the Magistrate Court of Bryan County.

7-119 Code Enforcement Officer; Subpoena and Arrest Powers. The Board of Commissioners and its duly designated officer and inspectors or its successors shall be classified as deputy marshal business inspectors with full subpoena and arrest power in conjunction with any violation pertaining to this Ordinance for 1996 and succeeding years.

7-120 Businesses Not Covered by This Ordinance. The following businesses are not covered by the provisions of this Ordinance but may be assessed an occupation tax or other type of tax pursuant to the provisions of other general laws of the State of Georgia or by local law:

1. Those businesses regulated by the Georgia Public Service Commission.

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2. Those electrical service businesses organized under Chapter 3 of Title 46 of the Official Code of Georgia Annotated.
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 of Georgia 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.

7-121 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 Georgia or of the United States.

7-122 When Occupation Tax Due and Payable; Payment Options. The amount of occupation tax shall be payable to the said Bryan County at the office of the Clerk of the Board of Commissioners, on January 1 each year and delinquent if not paid on or before February 1 each year. Interest at a rate of 1.5 percent per month shall be imposed on delinquent occupation taxes for each month of delinquency.

7-123 Payment of Occupation Tax by Newly Established Businesses. In the case of a business subject to occupation tax for a calendar year, which was not conducted for any period of time in the corporate limits of Bryan County in the preceding year, the owner, proprietor, manager, or executive officer of the business liable for occupation tax shall estimate the number of employees from commencing date to the end of the calendar year and such tax shall be paid within thirty (30) days from the date such business commences operation within the County. Where a taxpayer fails to make any

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such payment on or before the due date for such payment, a 1.5% percent penalty will be imposed for the balance of the month that payment is due and an additional 1.5% percent penalty will be imposed for each additional month of delinquency thereof.

7-124 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, said 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.

7-125 Businesses and Practitioners Required to Provide Certain Information to Bryan County; Inspections of Books and Records.

1. All businesses and practitioners doing business within the County shall provide to the Code Enforcement Officer of the County:

- (1) the address of any location or office maintained by such business or practitioner within the County;
- (2) a description of the business or types of business conducted or occupation or profession performed at such location; and
- (3) the payment of any business or occupation tax or regulatory fee to any other county.

2. In any case the Board of Commissioners of the County through its officers, agents, employees, or representatives, may inspect the books of the business or person for which the returns are made. The Code Enforcement Officer shall have the right to inspect the books or records for the business of which the return was made in Bryan County, Georgia, and upon demand of the Code Enforcement Officer, such books or records shall be submitted for inspection by a representative of the County within thirty days. Failure to submit such books or records within thirty days shall be grounds for revocation of the tax registration currently existing to do business in the County. Adequate records shall be kept in Bryan County, Georgia, for examination by the Code Enforcement Officer at that officer's discretion. If, after examination of the books or records, it is determined that a deficiency occurs as a result of under-reporting, a penalty of 10% of the tax due over 90 days will be assessed for the period delinquent.

7-126 Amendment, Repeal of Provision. This Ordinance shall be subject to amendment or repeal, in whole or in part, at any time, and no such amendment or repeal shall be

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construed to deny the right of the Board of Commissioners to assess and collect any of the taxes or other charges prescribed. Said amendment may increase or lower the amounts and tax rates of any occupation and may change the classification thereof, The payment of any occupation tax provided for shall not be construed as prohibiting the levy or collection by the jurisdiction of additional occupation taxes upon the same person, property, or business.

- 7-127 Applications of Provisions to Prior Ordinance.** This Ordinance 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 said ordinance or ordinances, or failure to comply with any other provisions hereof, shall continue and remain in force until such tax, regulatory fee, or assessment shall be full paid.
- 7-128 Provisions to Remain in Full Force and Effect Until Changed by Governing Body.** This Ordinance shall remain in full force and effect until changed by amendment adopted by the Board of Commissioners. All provisions hereto relating to any form of tax herein levied shall remain in full force and effect until such taxes have been paid in full.
- 7-129 Requirement of Public Hearing Before Adoption, Amendment, or Repeal of Ordinance and when Revenues Derived from Occupation Tax Increase.** The Board of Commissioners shall conduct at least one public hearing before adopting, amending or repealing any ordinance or resolution regarding the occupation tax. In addition, the Board of Commissioners shall conduct at least one public hearing to determine how to use the additional revenue derived from occupation taxes in any year when revenue from occupation taxes is greater than revenue derived from such taxes for the preceding year.
- 7-130 Option to Establish Exemption of Reduction in Occupation Tax.** The Board of Commissioners may by subsequent ordinance or resolution provide for an exemption or reduction in occupation tax or credit against occupation tax owed by one or more types of businesses or practitioners of occupations or professions as part maintaining 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 of Commissioners.
- 7-131 Conflicts Between Specific and General Provisions.** Where there is an apparent conflict

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in the Ordinance between specific and general provisions, it is the intention hereof that the specific shall control.

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