

**CHAPTER 8**  
**SECTION 1: BUSINESS OCCUPATION TAX ORDINANCE**  
**(ORDINANCE 06/04/1996)**

**A. OCCUPATION TAX REQUIRED; OCCUPATION TAX REQUIRED FOR BUSINESS DEALINGS IN WILKINSON COUNTY, GEORGIA.**

1. For the calendar year 1996 and succeeding years thereafter, each person engaged in any business, trade, profession, or occupation in Wilkinson County, Georgia, whether with a location in Wilkinson 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 fixed business location in Wilkinson County, Georgia. If the taxpayer has no fixed business location in Wilkinson County Georgia, such business tax registration shall be shown to the County Clerk or this officer's deputies or to any county law enforcement officer of Wilkinson County, Georgia, upon request.

**B. CONSTRUCTION OF TERMS; DEFINITIONS.**

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 the occupation tax.
2. *County* means Wilkinson County, Georgia.
3. *Employee* means an individual whose work is performed under the direction and supervision of the employer and whose employer withholds FICA, federal income or state income tax from such individual's compensation or whose employer issues to such individual for purposes of documenting compensation a form IRS W-2, but not a form IRS 1099.
4. *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.
5. *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.
6. *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 Wilkinson 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.

7. *Person* shall be held to include sole proprietors, corporations, partnerships, nonprofits, or any other form of business organization, but specifically excludes all nonprofit organizations.
8. *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.

**C. ADMINISTRATIVE AND REGULATORY FEE STRUCTURE.**

1. The fee schedule for persons, firms and corporations engaged in business and professions is set forth in Section. C of this ordinance.

**D. OCCUPATION TAX LEVIED; OCCUPATION TAX STRUCTURE; 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 areas of Wilkinson County, Georgia 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:
  - a. A flat fee applied uniformly to all businesses and practitioners of professions and occupations.
2. Occupation tax schedule
  - a. Flat fee-The amount of such fee which shall be applied uniformly to each business, trade, profession, or occupation shall be \$50.00 per year and shall be developed and updated from time to time by the County Commission.
3. Restrictions on imposition of occupation tax.
  - a. No business or practitioner shall be required to pay more than one occupation tax for each of its locations.
  - b. No occupation tax shall be required from those real estate brokers, real estate agents, or real estate companies whose offices are located outside the jurisdiction and who sell property inside the jurisdiction.
  - c. An occupation tax shall not be levied in any other manner except as described in this Section.

**E. 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 Wilkinson County and the business or practitioner:
  - a. has one or more employees or agents who exert substantial efforts within the jurisdiction of Wilkinson County for the purpose of soliciting business or serving customers or clients; or

b. owns personal or real property which generates income and which is located within the jurisdiction of Wilkinson 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.

**F. LINES OF BUSINESS TO BE IDENTIFIED ON BUSINESS REGISTRATION.**

1. The business registration of each business operated in the Wilkinson County shall identify the dominant line of business that the business conducts.

**G. THE NUMBER OF BUSINESSES CONSIDERED TO BE OPERATING IN WILKINSON COUNTY.**

1. 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 an occupation tax under this Ordinance.

**H. 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 be subject to the same occupation tax based on a flat fee, as set forth in Section. 4(13)(1) of this Ordinance.

**I. PRACTITIONERS EXCLUSIVELY PRACTICING FOR A GOVERNMENT.**

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, 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.

**J. PURPOSE AND SCOPE OF TAX.**

1. 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 through §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.

**K. 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 years thereafter unless otherwise specifically provided. Said registration and occupation tax shall be due on January 1 of each year and payable no later than the 31st day of January, of each year and shall, if not paid by the 31st day of January 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 Wilkinson County in 1996 or succeeding years thereafter, the registration and tax shall be delinquent if not obtained immediately upon beginning business and a penalty and interest imposed. The tax registration herein provided for shall be issued by the County Clerk 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 Wilkinson 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 Wilkinson County Magistrate Court, be punished by a fine not to exceed \$500.00, or imprisonment not to exceed 30 days, either or both in the discretion of the presiding judge.

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

For business and professions obtaining licenses for 1996, the occupation tax for 1996 shall be one-half(1/2) of the full yearly fee, and shall be due and payable no later than August 1,1996.

**L. EXEMPTION ON GROUNDS THAT BUSINESS IS A NONPROFIT ORGANIZATION.**

1. Any nonprofit organization shall be exempt from the levy of occupation tax under this Ordinance. However, any nonprofit organization requesting an exemption shall be required to furnish proof satisfactory to the county of such organization's nonprofit status.

**M. 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 Wilkinson County registration may be issued.

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.

**N. EVIDENCE OF QUALIFICATION REQUIRED IF APPLICABLE.**

1. Any business required to obtain health permits, bonds, certificates of qualification, certificates of competency, or any other regulatory requirement shall first, before the issuance of a Wilkinson County business registration, show evidence that such requirements have been met.

**O. LIABILITY OF OFFICERS AND AGENTS; REGISTRATION REQUIRED; FAILURE TO OBTAIN.**

1. Any 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 intending to commence business in Wilkinson County after January 1st of each year (and July 1, 1996 for calendar year 1996) shall likewise obtain the registration herein provided for before commencing the same; and any person transacting or offering to transact in Wilkinson 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 therefore.

**P. WHEN REGISTRATION AND TAX DUE AND PAYABLE; EFFECT OF TRANSACTING BUSINESS WHEN TAX DELINQUENT.**

1. Each such registration shall be for the calendar year in which the registration was obtained business otherwise specifically provided. There is hereby imposed a penalty upon each business which falls to apply for and obtain an appropriate business registration and pay all tax and fees as provided herein before January 31st of each year. Every person intending to commence business in Wilkinson County after July 1, 1996, shall obtain the registration required before commencing such business. Any person transacting or offering to transact in Wilkinson County any business, trade, profession, or occupation without first having obtained said registration shall be subject to the penalties provided in Section 17 of this Ordinance. Said penalties shall be in addition to all other penalties, civil and criminal herein provided; and may be 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 County clerk, and if any person, firm, or corporation whose duty it is to obtain a registration shall, after said occupation tax becomes delinquent, transact or offer to transact, in Wilkinson County any of the kind of business, trade, profession, or occupation that require registration without having first obtained said registration, such offender shall be subject to the penalties provided thereof

**Q. PENALTY FOR ORDINANCE VIOLATION.**

1. Any person violating any provisions of this Ordinance shall, upon conviction before the Magistrate Court of Wilkinson County, Georgia, be fined in an amount not exceeding \$500.00 or imprisoned not exceeding 30 days, either or both, in the discretion of the presiding judge.

**R. COUNTY CLERK; SUBPOENA AND ARREST POWERS.**

1. The Office of the County Clerk and its duly designated officer and inspectors or its successors shall be classified as deputy marshal-business inspectors with frill subpoena and arrest powers in conjunction with any violation pertaining to the Business Tax Ordinance for 1996 (this law) and succeeding years.

**S. BUSINESSES NOT COVERED BY THIS ORDINANCE.**

1. 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:
  - a. Those businesses regulated by the Georgia Public Service Commission.
  - b. Those electrical service businesses organized under Chapter 3 of Title 46 of the Official Code of Georgia Annotated.
  - c. Any farm operation for the production from or on the land of agricultural products, but not including agribusiness.
  - d. Cooperative marketing associations governed by O.C.G.A. § 2-10-105.
  - e. Insurance companies governed by O.C.G.A. § 33-8-8, et seq.
  - f. Motor common carriers governed by O.C.G.A. § 46-7-15.
  - g. Those businesses governed by O.C.G.A. § 48-5-355. (13 businesses that purchase carload lots of guano, meats, meal, flour, bran, cottonseed, or cottonseed meal and hulls.)
  - h. Agricultural products and livestock raised in the State of Georgia governed by O.C.G.A. § 48-5-356.
  - i. Depository financial institutions governed by O.C.G.A. § 48-6-93.
  - j. Facilities operated by a charitable trust governed by O.C.G.A. § 48-13-55.

**T. OCCUPATION TAX INAPPLICABLE WHERE PROHIBITED BY LAW OR PROVIDED FOR PURSUANT TO OTHER EXISTING LAW.**

1. 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.

**U. WHEN OCCUPATION TAX DUE AND PAYABLE; PAYMENT OPTIONS.**

1. The amount of occupation tax shall be payable to the said Wilkinson County at the office of the County clerk, on or before January 1st of each year and delinquent if not paid on or before January 31st of each year.

2. For calendar year 1996, the occupation tax shall be due and payable on or before August 1, 1996.

**V. MORE THAN ONE PLACE OR LINE OF BUSINESS.**

1. Where a business is operated at more than one place, 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.

**W. BUSINESSES AND PRACTITIONERS REQUIRED TO PROVIDE CERTAIN INFORMATION TO WILKINSON COUNTY INSPECTIONS OF BOOKS AND RECORDS.**

1. All businesses and practitioners doing business within Wilkinson County shall provide to the County clerk of Wilkinson County:
  - a. the address of any location or office maintained by such business or practitioner within Wilkinson County
  - b. a description of the business or types of business conducted or occupation or profession performed at such location; and
  - c. the payment of any business or occupation tax or regulatory fee to any other County.
2. In any case the Clerk of Wilkinson County through its officers, agents, employees, or representatives, may inspect the premises of the business for which the returns are made, in order to verify compliance with this Ordinance.

**X. TAX REGISTRATION TO BE REVOKED FOR FAILURE TO PAY TAX, FILE RETURNS, PERMIT INSPECTION OF BOOKS.**

1. Upon the failure of any business to pay said occupation tax or any part thereof before it becomes delinquent, or upon failure to make any of said returns within the time required herein, or upon failure to make a true return, or upon failure to amend a return to set forth the truth, or upon failure to permit inspection of its premises as above provided, any business tax registration granted by the County under this Ordinance permitting the owner of said business to do business for the current year shall be, ipso facto, revoked. No new business tax registration shall be granted by the County for the operation of a business for which any part of the occupation tax herein provided for is at that time unpaid, or to an individual, firm, or corporation who has failed to submit an application for an occupation license, as requested by the Clerk in accordance with provisions of this Ordinance. In the case of those practitioners where the local government cannot suspend the right of the practitioner to conduct business, the imposition of civil penalties shall be permitted and pursued by the local government in the case of delinquent occupation tax.

**Y. AMENDMENT, REPEAL OF PROVISION**

1. 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 construed to deny the right of the County 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.

**Z. ENFORCEMENT OF PROVISIONS.**

1. It is hereby made the duty of the County Clerk and the Sheriff of Wilkinson County, to see that the provisions of this Ordinance relating to occupation taxes are observed; and to summon all violators of the same to appear before the court. It is hereby made the further duty of the Clerk and the Sheriff of Wilkinson County and their assistants to inspect all registrations issued by Wilkinson County as often as in their judgment it may seem necessary to determine whether the registration held is the proper one for the business sought to be transacted hereunder.

**AA. PROVISIONS TO REMAIN IN FULL FORCE AND EFFECT UNTIL CHANGED BY GOVERNING BODY**

1. This Ordinance shall remain in full force and effect until changed by amendment adopted by the Board of Commissioners.

**AB. REQUIREMENT OF PUBLIC HEARING BEFORE ADOPTION, AMENDMENT, OR REPEAL OF ORDINANCE AND WHEN REVENUES DERIVED FROM OCCUPATION TAX INCREASE.**

1. 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.

**AC. CONFLICTS BETWEEN SPECIFIC AND GENERAL PROVISIONS.**

1. Where there is an apparent conflict in this Ordinance between specific and general provisions, it is the intention hereof that the specific shall control.

**AD. SEVERABILITY.**

1. If any section, provision, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be

invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

**AE. REPEAL OF CONFLICTING PROVISIONS.**

1. All ordinances or parts of ordinances in conflict with this ordinance, and not preserved hereby, are hereby repealed.