

House Bill 715

By: Representatives Blackmon of the 146th, Powell of the 171st, and Harrell of the 106th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated,
2 relating to general provisions regarding specific, business, and occupation taxes, so as to
3 eliminate gross receipts as a criterion for classifying businesses and practitioners for purposes
4 of calculating the occupation tax levied by local governments; to remove inapplicable
5 references; to require that the proceeds of local government regulatory fees be used to pay
6 for regulatory activity and not general operations; to remove provisions authorizing
7 calculation of regulatory fees for new construction, renovation, and other construction
8 projects; to remove provisions authorizing alternative occupation tax rates for practitioners
9 of certain professions and occupations; to provide for related matters; to provide for an
10 effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 style="text-align:center">**SECTION 1.**

13 Article 1 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to
14 general provisions regarding specific, business, and occupation taxes, is amended in Code
15 Section 48-13-7, relating to the levy of occupation tax by localities on businesses and
16 practitioners of professions and occupations with no location or office in state, superseding
17 of local law, laws applicable to levy, tax payable to only one local government, and
18 exemption, by revising subsection (d) as follows:

19 "(d) Local governments levying occupation tax according to this Code section shall
20 comply with Code Sections 48-13-10 through 48-13-13, except that: ~~gross receipts of a~~
21 ~~business or practitioner for purposes of this Code section shall include only those gross~~
22 ~~receipts reasonably attributable to sales or services in this state;~~ employees shall include
23 only those employees engaged in substantial efforts within this state; and nation-wide
24 profitability ratios shall apply only to types of business transacted within this state."

25 **SECTION 2.**

26 Said article is further amended in Code Section 48-13-9, relating to limitation on authority
 27 of local government to impose regulatory fee, examples of those which may be subject to
 28 fees, individuals and entities not subject to fees, and general laws not repealed, by revising
 29 subsections (a) and (e) as follows:

30 "(a) A local government is authorized to require a business or practitioner of a profession
 31 or occupation to pay a regulatory fee only if the local government customarily performs
 32 investigation or inspection of such businesses or practitioners of such profession or
 33 occupation as protection of the public health, safety, or welfare or in the course of
 34 enforcing a state or local building, health, or safety code, but no local government is
 35 authorized to use regulatory fees as a means of raising revenue for general purposes;
 36 provided that the amount of a regulatory fee shall approximate the reasonable cost of the
 37 actual regulatory activity performed by the local government and the proceeds of such
 38 regulatory fee shall be used to fund such regulatory activity and not the general operations
 39 of the local government."

40 "(e) For each business, profession, or occupation, local governments are authorized to
 41 determine the amount of a regulatory fee imposed in accordance with this article only by
 42 one of the following methods:

- 43 (1) A flat fee for each business or practitioner of a profession or occupation doing
 44 business in the jurisdiction as authorized by Code Section 48-13-8;
- 45 (2) A flat fee for each type of permit or inspection requested;
- 46 (3) An hourly rate determined by the hourly wage or salary, including employee benefits,
 47 of the person or persons assigned to investigate or inspect multiplied by the number of
 48 hours estimated for the investigation or inspection to be performed; or
- 49 (4) An hourly rate as determined by paragraph (3) of this subsection with the addition
 50 of other expenses reasonably related to such regulatory activity, such as administrative
 51 and travel expenses, multiplied by the number of hours estimated for the investigation or
 52 inspection to be performed;
- 53 ~~(5) For construction projects that are classified as new construction, the number of~~
 54 ~~square feet of construction or the number of square feet of construction to be served by~~
 55 ~~the system to be installed, in conjunction with and limited by the building valuation data,~~
 56 ~~as established from time to time by the International Code Council or by similar data, and~~
 57 ~~in conjunction with and limited by the hourly rate described in paragraph (3) or (4) of this~~
 58 ~~subsection; or~~
- 59 ~~(6) For construction projects that are classified as renovation and all other construction~~
 60 ~~projects other than those classified as new construction, the cost of the project in~~
 61 ~~conjunction with and limited by the building valuation data that conforms with the~~

62 ~~principles and methods established from time to time by the International Code Council~~
 63 ~~or by similar data, and in conjunction with and limited by the hourly rate described in~~
 64 ~~paragraph (3) or (4) of this subsection."~~

65 **SECTION 3.**

66 Said article is further amended in Code Section 48-13-10, relating to the determination of the
 67 amount of the occupation tax, by revising subsections (a) through (c), (f), and (g) as follows:

68 "(a) In determining the amount of occupation tax to be levied on an individual business or
 69 practitioner, local governments shall classify all businesses or practitioners by the same
 70 criterion or combination of criteria. To assure uniformity, each and every business and
 71 practitioner shall be classified by the same criterion or combination of criteria. The criteria
 72 used for classification shall be one or more than one of the following criteria:

73 (1) The number of employees of the business or practitioner as computed on a full-time
 74 position basis or full-time position equivalent basis, provided that for the purposes of this
 75 computation an employee who works 40 hours or more weekly shall be considered a
 76 full-time employee and that the average weekly hours of employees who work less than
 77 40 hours weekly shall be added and such sum shall be divided by 40 to produce full-time
 78 position equivalents;

79 (2) Profitability ratio for the type of business, profession, or occupation as measured by
 80 nation-wide averages derived from statistics, classifications, or other information
 81 published by the United States Office of Management and Budget, the United States
 82 Internal Revenue Service, or successor agencies of the United States;

83 ~~(3) Gross receipts of the business or practitioner in combination with the profitability~~
 84 ~~ratio for the type of business, profession, or occupation as measured by nation-wide~~
 85 ~~averages derived from statistics, classifications, or other information published by the~~
 86 ~~United States Office of Management and Budget, the United States Internal Revenue~~
 87 ~~Service, or successor agencies of the United States Reserved; or~~

88 (4) A flat fee classification which is applied uniformly to all businesses and practitioners
 89 of professions and occupations, so that each business or practitioner pays the same
 90 amount of tax for each office or location.

91 ~~(b) Local governments which classify businesses and practitioners by the criterion~~
 92 ~~described in paragraph (3) of subsection (a) of this Code section are authorized but not~~
 93 ~~required to limit the geographic area in which gross receipts shall be taxed to that local~~
 94 ~~government's jurisdiction Reserved.~~

95 (c) Local governments which classify by the criteria described in paragraph (2) ~~or (3)~~ of
 96 subsection (a) of this Code section shall rank the businesses and practitioners according to
 97 the profitability ratio described in said paragraph (2) of subsection (a) of this Code section.

98 After such ranking, the local government shall establish profitability classifications which
 99 do not overlap before setting one or more rates of taxation for each classification. Such
 100 local governments are not authorized to apply to any classification a rate of taxation greater
 101 than the rate applied to another classification which includes a business or practitioner with
 102 a higher profitability ratio, ~~except that local governments are authorized but not required~~
 103 ~~to apply different rates of taxation within the same profitability classification by dollar~~
 104 ~~range of gross receipts. Local governments using such different rates of taxation within~~
 105 ~~the same profitability classification shall use the same dollar ranges of gross receipts for~~
 106 ~~each profitability classification and shall not apply to any business or practitioner a rate of~~
 107 ~~taxation greater than the rate applied to the same dollar range of gross receipts in another~~
 108 ~~classification which includes a business or practitioner with a higher profitability ratio."~~

109 "(f)(1) Notwithstanding any other provision of this article, local governments may by
 110 ordinance or resolution provide for an exemption or reduction in occupation tax or a
 111 credit against occupation tax owed to one or more types of businesses or practitioners of
 112 occupations or professions as part of a plan for economic development or attracting,
 113 encouraging, or maintaining selected types of businesses or practitioners of selected
 114 occupations or professions. Such exemptions or reductions in occupation tax shall not
 115 be arbitrary or capricious.

116 (2) Exemptions or reductions in occupation tax pursuant to paragraph (1) of this
 117 subsection may include, but shall not be limited to, the following:

118 (A) Absolute dollar amount limitations on the total amount of tax, either by criterion
 119 or combination of criteria used for classification or for businesses and practitioners,
 120 provided that a jurisdiction which provides an absolute dollar amount limitation on the
 121 total amount of tax shall levy and collect such maximum tax only once on each business
 122 entity or practitioner even if a business or practitioner has more than one office or
 123 location within the jurisdiction;

124 (B) Tax credits for the retention or creation of jobs, or for jobs of a specific description,
 125 including, but not limited to, entry level jobs or jobs with compensation of a specified
 126 range;

127 (C) Tax credits for other taxes paid to the local government, including, but not limited
 128 to, ad valorem taxes;

129 (D) A tax exemption or a lower rate of taxation for sales to customers outside the
 130 jurisdiction of the local government;

131 (E) A credit or rebate to businesses or practitioners who paid occupation taxes in the
 132 previous year;

133 (F) A limitation on the dollar or percentage amount of increase in tax from a base year
 134 to a subsequent year, provided that the limitation is made applicable to new businesses

135 or practitioners by imputing the ~~gross receipts~~, profitability ratio, or number of
 136 employees of the subsequent year to the base year in calculating tax for the base year,
 137 tax for the subsequent year, and the increase in tax; and

138 (G) A credit or reduction as an adjustment for seasonal fluctuations in the number of
 139 employees, other fluctuations in the number of employees, increases or decreases in the
 140 number of employees, or temporary employees.

141 ~~(g) Practitioners of professions and occupations who are listed in paragraphs (1)~~
 142 ~~through (18) of subsection (c) of Code Section 48-13-9 shall elect as their entire occupation~~
 143 ~~tax one of the following:~~

144 ~~(1) The occupation tax resulting from application of the other provisions of this article;~~
 145 ~~or~~

146 ~~(2) A fee to be set by the local government, not to exceed \$400.00 per practitioner who~~
 147 ~~is licensed to provide the service, such tax to be paid at that practitioner's office or~~
 148 ~~location; provided, however, that a practitioner paying according to this paragraph shall~~
 149 ~~not be required to provide information to the local government relating to the gross~~
 150 ~~receipts of the business or practitioner."~~

151 SECTION 4.

152 Said article is further amended by revising Code Section 48-13-12, relating to classification
 153 rules for businesses or practitioners with more than one type of service or product, as
 154 follows:

155 "48-13-12.

156 For businesses or practitioners with more than one type of service or product, the following
 157 classification rules shall apply:

158 ~~(1) Local governments which do not use the criterion described in paragraph (3) of~~
 159 ~~subsection (a) of Code Section 48-13-10 shall classify the business or practitioner for~~
 160 ~~occupation tax purposes according to the dominant service or product, unless such local~~
 161 ~~governments use only the criterion described in paragraph (4) of subsection (a) of Code~~
 162 ~~Section 48-13-10; and~~

163 ~~(2) Local governments which use the criterion described in paragraph (3) of~~
 164 ~~subsection (a) of Code Section 48-13-10 shall set out in their local ordinances or~~
 165 ~~resolutions for occupation taxes whether the local government will:~~

166 ~~(A) Classify the entire gross receipts by dominant service or product; or~~

167 ~~(B) Apportion the gross receipts by category of service or product in proportion to the~~
 168 ~~gross receipts generated by each service or product, taxing each portion of the gross~~
 169 ~~receipts according to the profitability ratio for that particular type of business and~~
 170 ~~adding the tax for all portions to arrive at the total occupation tax."~~

171 **SECTION 5.**

172 Said article is further amended in Code Section 48-13-13, relating to prohibitions on
 173 occupation tax levies by local governments, by revising paragraph (2) as follows:

174 ~~"(2) Levy occupation tax on more than 100 percent of the total gross receipts of the~~
 175 ~~business or practitioner, when occupation taxes of all local governments are added~~
 176 ~~together~~ Reserved;"

177 **SECTION 6.**

178 Said article is further amended by repealing Code Section 48-13-14, relating to levy on
 179 business or practitioner with location or office in more than one jurisdiction, methods of
 180 allocating gross receipts, information provided by business or practitioner, and limits on
 181 levies by local governments using criteria for taxation, and designating said Code section as
 182 reserved.

183 **SECTION 7.**

184 Said article is further amended by revising Code Section 48-13-15, relating to confidentiality
 185 of information provided by business or practitioner, violation, and when disclosure allowed,
 186 as follows:

187 "48-13-15.

188 ~~(a) Except as provided in subsection (c) of this Code section, information on gross receipts~~
 189 ~~received by a business or practitioner of an occupation or profession provided to a local~~
 190 ~~government for the purpose of determining the amount of occupation tax for the business~~
 191 ~~or practitioner is confidential and exempt from inspection or disclosure under Article 4 of~~
 192 ~~Chapter 18 of Title 50.~~

193 ~~(b) Violation of the confidentiality provision of subsection (a) of this Code section shall~~
 194 ~~be unlawful and upon conviction shall be punished as a misdemeanor.~~

195 ~~(c) Information on gross receipts received by a business or practitioner of an occupation~~
 196 ~~or profession provided to a local government for the purpose of determining the amount~~
 197 ~~of occupation tax for the business or practitioner may be disclosed to the governing~~
 198 ~~authority of another local government for occupation tax purposes or pursuant to court~~
 199 ~~order or for the purpose of collection of occupation tax or prosecution for failure or refusal~~
 200 ~~to pay occupation tax.~~

201 ~~(d)~~ In the event a taxpayer completes one or more forms in order to comply with a local
 202 government's ordinance or resolution imposing either an occupation tax or a regulatory fee
 203 and any such form fails to disclose the social security number or the appropriate federal or
 204 state taxpayer identification number, or other identification numbers, if required by the

205 local government, such omission shall be reported in a timely manner to the state revenue
206 commissioner."

207 **SECTION 8.**

208 Said article is further amended by revising Code Section 48-13-17, relating to levy of license,
209 occupation, or professional tax by counties and municipalities upon real estate brokers, as
210 follows:

211 "48-13-17.

212 (a) No county or municipal corporation shall levy or collect any fixed amount license,
213 occupation, or professional tax upon real estate brokers, except at the place where any such
214 real estate broker shall maintain a principal or branch office. The license, occupation, or
215 professional tax shall permit the broker and the broker's affiliated associate brokers and
216 salespersons to engage in all of the brokerage activities described in Code Section 43-40-1
217 without further licensing or taxing other than the state licenses issued pursuant to Chapter
218 40 of Title 43. No additional license, occupation, or professional tax shall be required of
219 the broker's affiliated associate brokers or salespersons; ~~provided, however, that, subject~~
220 ~~to the limitations of subsection (b) of this Code section, a municipality or county which~~
221 ~~levies a general occupation or business license tax on a gross receipts basis shall have the~~
222 ~~power to levy and collect an occupation, license, or professional tax upon real estate~~
223 ~~brokers transacting business within the boundaries of the taxing jurisdiction, which tax~~
224 ~~shall be based upon gross receipts derived from transactions with respect to property~~
225 ~~located within the boundaries of the taxing jurisdiction.~~

226 ~~(b) A municipal corporation may impose an occupation, license, or professional tax upon~~
227 ~~real estate brokers based upon gross receipts only for real estate transactions with respect~~
228 ~~to property located within its corporate limits and a county governing authority may impose~~
229 ~~such a tax based upon gross receipts only for real estate transactions with respect to~~
230 ~~property located in the unincorporated area of the county."~~

231 **SECTION 9.**

232 Said article is further amended by revising Code Section 48-13-22, relating to amount of tax
233 due from businesses commenced on or after July 1, as follows:

234 "48-13-22.

235 When any person commences business on or after July 1 in any year, the business or
236 occupation tax for the remaining portion of the year shall be 50 percent of the tax imposed
237 for the entire year, except that ~~(1) local governments which tax according to the criterion~~
238 ~~described in paragraph (3) of subsection (a) of Code Section 48-13-10 are authorized to~~
239 ~~levy their customary rate on the gross receipts of the business or practitioner from the~~

240 ~~commencement of the business; (2) the administrative fee authorized as a component of~~
241 ~~an occupation tax by subsection (e) of Code Section 48-13-10 shall not be reduced; and (3)~~
242 ~~a practitioner of a profession or occupation who elects as his or her occupation tax the~~
243 ~~amount described in paragraph (2) of subsection (g) of Code Section 48-13-10 shall receive~~
244 ~~no reduction in such amount."~~

245 **SECTION 10.**

246 This Act shall become effective on July 1, 2025.

247 **SECTION 11.**

248 All laws and parts of laws in conflict with this Act are repealed.