

Chapter 34

TAXATION*

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State Law References – Taxation power of Municipal Governments., GA. Const., Art. 9, Sec. 4 Par. 1; Limitation on Taxing Power of Municipalities, Ga. Const. Art. 9 Sec. 2, Par. 8; Ad Valorem Taxation of Property, O. C.G.A. §48-5-2; Municipal Taxation, O.C.G.A. §48-5-350 et seq; Specific Business and Occupation Taxes, O.C.G.A. §48-13-1 et seq.

Chapter 34. TAXATION*

ARTICLE I. IN GENERAL

Sec. 34-1. Return and Itemized Statement: Filing; Affidavit; Failure to Make.

Each person required to make tax returns with the comptroller general of the state shall on or before February 1 of each year file with the City Clerk and Treasurer, upon blanks supplied by the City Clerk and Treasurer, a complete return and itemized statement of all property owned by such person located within the city, giving the fair market value of each item thereof. The return and itemized statement shall be verified by the affidavit of the person making the return, or in the case of corporations, by some authorized officer or agent thereof. Upon failure to make the return and statement, it shall be the duty of the Tax Assessors of the city to make the valuation and assess the taxation thereon, and in all other respects to make the return for the defaulting person from the best information they can obtain. Having done so, they shall double the tax against such defaulter. (Code 1968, §18-1)

Sec. 34-2. Installment Payment Dates; Discount; Due Date.

City taxes shall be due and payable in six monthly installments, beginning with June and extending through November. No discount shall be allowed for the payment of city taxes on installments. A discount of three percent shall be allowed for payment of the entire tax between June 1 and June 20. No other discounts on city taxes shall be allowed. City taxes shall be due and payable on or before December 20 of each year. (Code 1968, §18-3)

Sec. 34-3. Writs of Fieri Facias—Issuance; Delinquency Interest.

Writs of fieri facias may be issued for each installment on the last day of the month in which it is due, and each installment shall bear interest at the rate of seven percent per annum from the time it is thus due until it is paid. Immediately after December 20 of each year writs of fieri facias must be issued for all taxes remaining unpaid at the close of business on December 20. (Code 1968, §18-4)

Sec. 34-4. Same—Stay of Execution.

No member of the City Council or other officer or employee of the city shall have the power or authority to interfere with the collection of any fieri facias, except where the taxpayer can show providential cause for failure to pay. The City Council may in a regular meeting instruct and authorize a stay of execution for a period not longer than 60 days by a majority vote of the Council duly recorded in the minutes of Council, provided the taxpayer shall have made application in writing for such extension, setting forth the causes for failure to pay on or before the due date. (Code 1968, §18-5)

Sec. 34-5. Assessors.

The City Tax Assessors shall be appointed at the organizational meeting of the Council each year, and they shall begin their work on January 2 thereafter, unless that day is Sunday, in which case they shall begin the next following day, and they shall complete their work in as reasonably short a time as possible. (Code 1968, §18-6)

Charter Reference – Authority of City Assessors to employ professional help, §40.

Cross Reference – Officers and employees, §2-56 et seq.

Secs. 34-6 – 34-30. Reserved.

Chapter 34. TAXATION*

ARTICLE II. EXCISE TAX ON LODGINGS AND ACCOMMODATIONS*

Sec. 34-31. Imposition of Tax.

(a) The City of Elberton shall levy and collect an excise tax upon the furnishing for value to the public of any room or rooms, lodgings, or accommodations furnished by any person or legal entity licensed by, or required to pay business or occupation taxes to, the City of Elberton for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value.

(b) This tax shall be imposed upon:

- (1) Any person or legal entity licensed by or required to pay a business or occupation tax to the City of Elberton for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value and shall apply to the furnishing for value of any room, lodging, or accommodation. Every person or entity subject to a tax levied under this article shall, except as provided below, be liable for the tax at the applicable rate on the lodging charges actually collected, or if the amount of taxes collected is in excess of the amount that should have been collected, the total amount actually collected must be remitted.
- (2) Every person or entity who is a hotel or motel guest and who receives a room, lodging, or accommodation that is subject to this tax. Every such guest shall pay the tax to the person or entity providing the room, lodging, or accommodation. The tax shall be a debt of the guest to the person or entity providing such room until it is paid and shall be recoverable at law by the person or entity providing such room.
- (3) The person or entity collecting this tax from the guest shall remit the tax to the City of Elberton, and the tax remitted shall be a credit against the tax imposed by subsection 34-31(B)(1) of this article.

(Code No. 2133, §I, 7-11-05)

***Editor's Note** – Ord. No. 2133, §§I-V, adopted July 11, 2005, was not specifically amendatory of the Code and has been treated as superceding the provisions of Art. II, §§34-31—34-34 as enacted by Ord. No. 1022, §§1-4, adopted July 12, 1993.

Cross Reference – Businesses, ch. 10

State Law Reference – Excise tax on rooms, lodgings, and accommodations, O.C.G.A. §48-13-50 et seq.

Sec. 34-32. Limitations and Exceptions.

(a) The tax imposed shall apply to the fees or charges for any rooms during the first ten days of continuous occupancy and shall not apply to charges imposed for any continuous occupancy thereafter.

(b) The tax shall not apply to:

- (1) Any charges made for any rooms, lodgings, or accommodations provided to any person who certify that they are staying in such room, lodging, or accommodation as a result of the destruction of their home or residence by fire or other casualty; or

- (2) Any charges made for the use of meeting rooms and other such facilities; or
- (3) Any rooms provided without charge; or
- (4) Charges for any rooms furnished for use by the United States or Georgia State or local governmental officials or employees when traveling on official business.

(Ord. No. 2133, §II, 7-11-05)

Sec. 34-33. Tax Rate and Required Expenditures, Audits and Reports.

(a) The amount of tax to be levied and collected shall be six percent of the charge to the public for the furnishings.

(b) Funds which accrue to the City of Elberton under this tax shall be expended according to the expenditure requirements set forth in O.C.G.A. §48-13-51(a)(3.7).

(c) Pursuant to O.C.G.A. §48-13-51(a)(9) the City of Elberton shall prior to each fiscal year in which this tax is imposed adopt a budget plan specifying how the expenditure requirements of this article will be met. Said budget plan shall include the following information:

- (1) The amount of tax receipts from this tax during the fiscal year;
- (2) The amount of funds expended or contractually committed that arise under this tax during the fiscal year; and
- (3) The percentage said expenditures account for within the total of all tax receipts arising under this article.

(d) Prior to the adopting of such budget plan, the City of Elberton shall obtain from the authorized entity with which it proposes to contract to meet the expenditure requirements of this article a budget for expenditures to be made by such organization; and such budget shall be made a part of the budget for the City of Elberton.

(e) Each party with which the City of Elberton contracts with pursuant to this article must provide audit verification that said contracting party makes use of such funds in conformity with the requirements of this article.

(Ord. No. 2133, §III, 7-11-05)

Sec. 34-34. Due Date; Extensions; Credits.

(a) The tax shall become due at the time any room is furnished for a fee or charge by the person or legal entity subject to the provisions hereof, and shall be payable by the 20th day of the month following the month that such fees or charges were made. A return itemizing gross receipts and expected receipts shall be filed with the City of Elberton simultaneously with payment of the tax by the person or legal entity who receives such charges or fees.

(b) The city of Elberton may, for good cause, extend the time for making any returns required under this article for not more than 30 days. No extension granted shall be valid unless granted in writing upon written application, and then extension shall only be valid for a period, as appropriate, of not more than 12 consecutive months.

(c) Each person or legal entity required to make a return and pay any tax under this article shall keep and preserve:

- (1) Suitable records of the charges taxable under this article; and
- (2) Other books of account which are necessary to determine the amount of tax due.

(d) All books, invoices, and other records required by this section shall be open to examination at all reasonable hours by the City of Elberton.

(e) Each person collecting the tax authorized by this article shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if the amount due is not delinquent at the time of payment. This percentage shall be three percent.

(Ord. No. 2133, §IV, 7-11-05)

Sec. 34-35. Penalties.

(a) If any person or legal entity fails to make any return or to pay the full amount of the tax required by this article, there shall be imposed, in addition to other penalties provided by law, a penalty to be added to the tax in the amount of five percent or \$5.00, whichever is greater, if the failure is for not more than 30 days.

(b) An additional five percent or \$5.00, whichever is greater, shall be added to the tax for each additional 30 days or fraction of 30 days during which the failure continues. The penalty for any single violation shall not exceed 25 percent or \$25.00 in the aggregate, whichever is greater.

(Ord. No. 2133, SV, 7-11-05)