



**CITY OF DUNWOODY**  
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## **MEMORANDUM**

**To:** Mayor and City Council  
**From:** Chris Pike, Finance Director  
**Date:** July 12, 2010  
**Subject:** **DISCUSSION OF THE BUSINESS LICENSE ORDINANCE**

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### **ITEM DESCRIPTION**

To discuss the occupation tax program of the City

### **BACKGROUND**

We currently have six tax classes; each class with a different gross receipts charge and different per employee charge. Special rules apply to practitioners (such as doctors, lawyers, CPA's, etc), banks, and insurance companies. This discussion will not address these exceptions, but rather will focus on the "normal" procedures for most businesses.

On October 19, 2009, Council instructed staff to evaluate options to move to a flat gross receipts tax rate for all businesses. Subsequently, as not to move too quickly and make mistakes, Council decided to leave the current tiered structure in place for the 2010 tax year. At the annual retreat, Council instructed staff to return to this issue in 2010 well enough in advance of the 2011 year so staff could revisit past issues as well as discuss changes to the ordinance and revisions to the rate structure.

### **ISSUES**

Going through my first "normal" tax season here in Dunwoody, I observed a few issues that need to be brought to the attention of Council. I will attempt to address them in the order I consider impact the taxpayer base the most.

The first relates to the "true up" process. This is the term given to the reconciliation done at the current year for the previous year's estimate. By far, the largest amount of questions from the public and headaches for the staff was related to this issue. Customers were confused as to why they were paying for a previous year. The benefits of eliminating the true up process include a simpler process for staff and businesses, elimination of an entire mailing, and the ability to use the current software without reprogramming. Furthermore, it would allow us to transition to online tax preparation and payment.

Second, Council needs to readdress the rate structure currently in place. While most of our revenues are set by contract or law, our occupation rates are one area where Council has both the flexibility to change and evidence that our current rates are well below our neighboring cities. Staff feels the occupation tax rate plays virtually no part in a business' decision to locate in a city. Dunwoody has a large daytime population who use our city's roads and other resources. When those employees and customers leave our town at night, they leave behind repairs that need addressing. Our businesses represent less than half of our assessed real estate tax base, but may account for significantly more infrastructure, policing, and development issues. The gap in revenue between our rate structure and the new Fulton County cities is 54%. Staff does not recommend closing that gap entirely, but Council should consider whether some increase could be done without forfeiting any competitive advantage over the other cities. In my opinion, Dunwoody offers a premium "product" in our location compared to those other cities, but we are selling it well below the market value.

Third, as you may be aware, the City's ordinance is currently being challenged by a law firm claiming it is unconstitutional for them to pay the tax. We feel our ordinance is just as legal as the state's income tax and are defending our position. We currently collect around \$50,000 from law firms and feel many other firms are ignoring the ordinance. Once the court decides our case, we will revisit this issue.

The fourth issue is one that is currently plaguing many Georgia cities. Across the nation, many "We Buy Gold" businesses have been emerging. Not unlike pawn shops, thieves will take stolen goods and sell to the businesses at substantially below market rates. OCGA 44-12-130 defines a pawnbroker as any person engaged in whole or in part in the business of lending money on the security of pledged goods, or in the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers as a part of or in conjunction with the business activities described in this paragraph. It is this last condition ... purchasing tangible personal property (gold) from persons or sources other than the manufacturer or licensed dealers that ties your traditional gold buyers to the definition of a pawnbroker. My concern is whether we can make this application when OCGA has a specific section (OCGA 43-37-1 through 43-37-7) outside the pawnbroker section that deals with precious metals dealers. I would rather clean our ordinance to specifically address precious metals and gem dealers than just include them with pawnbrokers.

Lastly, we do have some minor issues that need to be addressed within the text of the ordinance itself. For example, our ordinance requires a nonprofit claiming an exemption shall provide to the Finance Department a federal tax exemption letter showing the code section under which an exemption is claimed. However, many nonprofit organizations are not required to "apply" for tax exempt status. A church, for example, does not have to request an exemption letter. The church is automatically exempt. The language just needs to be tweaked to clean up these issues.

## **RECOMMENDED ACTIONS**

Council's direction is requested.