

ORDINANCE NO. 1

ENACTING AN OCCUPATION TAX ORDINANCE

BE IT ORDAINED BY THE BOARD OF QUAY COUNTY COMMISSIONERS OF QUAY COUNTY:

Section 1. TITLE.--This ordinance may be referred to as the "Occupation Tax Ordinance".

Section 2. DEFINITIONS.--As used in the Occupation Tax Ordinance:

A. "county" means Quay County.

B. "board" means the board of county commissioners of Quay County.

C. "engaging in business" means operating, conducting, doing, carrying on, causing to be carried on, or pursuing any business, profession, occupation, or trade including isolated or occasional transactions by persons who are neither regularly engaged in nor holding themselves out as being engaged in a business; however, this provision shall in no manner apply to the license required of wholesale or retail dealers in liquor.

D. "person" means any person or entity subject to the county occupation tax.

E. "occupation tax" means the tax imposed by this ordinance.

Section 3. IMPOSITION OF TAX.

A tax is imposed on all occupations, professions, trades, pursuits, utilities, corporations, or other institutions, establishments or businesses of whatever name or character for the privilege of doing business within the county. The tax

applies only to the entities and persons named above that are engaged in business in the county and are engaged in business not solely within the boundaries of an incorporated municipality located in the county.

Section 4. APPLICATION.

Every person who is subject to the county occupation tax shall, before doing business, make out an application, under oath, stating the names of the applicants, the applicant's taxpayer identification number issued by the revenue division of the taxation and revenue department, the character of the business for which the license is desired, the place where such business is to be conducted, and shall also state the amount of business done the preceding year, or if no business has been transacted, then the approximate amount of the annual business expected to be done by the applicant required to be known in order to determine the license tax to be paid.

Section 5. RATE OF TAX

The occupation tax imposed in Section 2 of the Occupation Tax Ordinance shall be at the following rates of applicable annual sales per business subject to the Occupation Tax.

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| Annual sales not exceeding \$3,000----- | \$ 10.00 |
| Annual sales exceeding \$3,000 and not exceeding \$10,000--- | \$ 20.00 |
| Annual sales exceeding \$10,000 and not exceeding \$20,000-- | \$ 35.00 |
| Annual sales exceeding \$20,000 and not exceeding \$50,000-- | \$ 65.00 |
| Annual sales exceeding \$50,000 and not exceeding \$75,000-- | \$100.00 |
| Annual sales exceeding \$75,000 and not exceeding \$100,000- | \$125.00 |
| Annual sales exceeding \$100,000----- | \$175.00 |

An additional \$2.00 fee shall be collected by the county clerk for issuing a license.

License applications may be applied for and taken out quarterly, semiannually, or annually, except an Itinerant application must be for one year.

Section 6. PAYMENT OF TAX.

Each person having a business subject to the Occupation Tax shall pay the Occupation Tax to the County Clerk on or before January 1 of each year. Any portion of the Occupation Tax that remains unpaid on January 30 of the same year is delinquent.

Section 7. ENFORCEMENT.

If a person fails to pay the occupation tax required by this ordinance, the county clerk shall mail the person notice of his delinquency and right to protest that fact.

Section 8. PROTEST HEARINGS.

A person who has failed to pay his occupation tax has ten (10) days after receipt of the notice from the county clerk to file a protest. The protest shall be filed with the county clerk and shall be heard at the next regular meeting of the board. At the protest hearing, the person may appear and present evidence to prove he is not subject to the tax. If the board is satisfied after hearing the evidence that the person is not engaged in business within the county, it shall notify both the protestant and the county clerk of that fact so that the protestant's tax liability may be eliminated. If the board finds that the protestant is engaged in business in the county, the protestant must pay his tax and penalty within ten (10) days of the board's decision.

Section 9. PENALTY.

Interest at the rate of one and one-half percent (1½%) per month, or any fraction thereof, will be charged on all delinquent occupation taxes, and may also be subject to the provisions of Section 4-37-3 N.M.S.A. 1978 for violation of a county ordinance.

Section 10. LIENS.

A. When the County Occupation Tax is delinquent, that tax constitutes a lien in favor of the county upon the personal property of the business. The county clerk shall file the lien in the county records maintained in the county clerk's office when the Occupation Tax is delinquent.

B. The liens provided for herein may be foreclosed in the same manner as security interests are foreclosed.

Section 11. ADOPTION, EFFECTIVE DATE, AND PUBLICATION.

The adoption of this ordinance enacting an occupation tax will be submitted to the board for final passage after publication once a week for two consecutive weeks in a newspaper of general circulation in the county and will be submitted to the board for final passage at the regular meeting of the Board of Quay County Commissioners to be held August 13, 1979, beginning at 10:00 A.M. in the Commissioner's Room at the Quay County Courthouse.

Pursuant to Section 4-37-9 N.M.S.A. 1978, upon passage and recording by the county clerk, said ordinance shall be effective 30 days after said passage and recordation.

Businesses within the county who have already purchased a county occupation license for the current year shall not be subject to this ordinance until January 1980.