

# How to Operate a Business Legally in Georgia

Almost everyone who starts a new business is aware that a business license is necessary to operate legally in Georgia, but what other legal requirements do the state and federal government have? What does the owner need to know about withholding tax, building occupancy permit, and sales and use tax?

Finding out this information can be difficult, since it means talking to several different agencies at the federal, state and local levels. This information is not all-inclusive and should not be considered a substitute for legal assistance from a qualified attorney. Also, since the requirements are subject to change, prospective business people should contact the individual departments for the latest information.

Probably the best place to start in assimilating all this information is with the business license. Everyone is generally aware of the need for one, but not everyone knows where to get it. If located within an incorporated city limit, a license must be obtained from the city; if outside the city limits, then from the county.

Also, those who are planning to occupy a new building or use an existing one for a new business, may have to apply for a Certificate of Occupancy from the appropriate city or county zoning department.

Businesses involved in food processing or grocery sales need a food sales establishment license from the Georgia Department of Agriculture before starting. An inspection is also required and may be requested by phone. An application for business will be accepted if the inspection shows that the establishment meets the department's requirements. Help can be obtained from the Department of Agriculture in preparing for the inspection. It is advised that business owners contact the department before investing in any renovation, equipment or plans. For information, contact:

*Georgia Department of Agriculture  
Consumer Protection Division  
Agriculture Building, Room 306  
Atlanta, Georgia 30334  
(404) 656-3627*

Firms engaged in cooking or preparation of food to be served, including restaurants, hotels and nursing homes, are licensed by the county environmental health departments.

Categories of business that concern the public interest also are subject to special permits, licensing and inspection. This includes schools, nurseries, motor transport, public entertainment, employment agencies, securities dealers and financial institutions. Contact the State of Georgia Information line at (404) 656-2000 for the number of the correct agency.

Businesses which sell alcoholic beverages must have a state alcoholic beverage license and a local license which is obtained from either the city or county in which the store is located. The application forms for the licenses must be completed before the business is opened. Local authorities and the Department of Revenue can be of assistance in preparing the application. For information and application forms from the state contact:

*Department of Revenue  
Alcohol & Tobacco Unit  
317 Trinity- Washington Building  
Atlanta, Georgia 30334 - (404) 656-4252*

Taxes cannot be ignored, of course. Business owners are required by law to withhold the following from the wages paid to employees: federal income taxes, state income taxes and FICA (Social Security) Insurance.

Income taxes will also be levied by the federal and state governments on earnings of any business. Therefore, each business must file an income tax return with both agencies. Businesses may be required to file estimated tax returns and pay estimated taxes on a quarterly basis.

For federal tax information, contact:

*U.S. Internal Revenue Service  
275 Peachtree Street, NE  
Atlanta, Georgia 30303  
(404) 522-0050, ext. 5*

State tax information can be obtained from:

*Georgia Department of Revenue  
Georgia Income Tax Division  
Post Office Box 38067  
Atlanta, Georgia 30334  
(404) 656-4071*

The IRS has a number of publications that are available upon request to small businesses. One of the most helpful is "Your Business Tax Kit," which includes data and forms for a Federal Employer Identification Number and a tax guide for small businesses that can be ordered by calling Forms and Publications at 1-800-829-3676 or through a visit to the IRS office.

In Georgia there is a 4 percent sales and use tax which applies to the retail purchase, retail sale, rental, storage, use or consumption of tangible personal property and certain services. In other words, sales tax must be collected on just about every tangible item sold, except for the exempt categories of prescription drugs, eyeglasses and contact lenses.

A sales tax number is required for each business before opening. The number plus instructions for collection, reporting and remitting the money to the state on a monthly basis can be obtained from:

*Georgia Department of Revenue  
Sales and Use Tax Division  
Registration Section  
310 Trinity- Washington Building  
Atlanta, Georgia 30334  
(404) 656-4060*

In addition, some counties have exercised local option issues to increase their sales and use tax to pay for certain projects.

Businesses are required by the state to pay unemployment insurance tax if the company has one or more employees for 20 weeks in a calendar year, or it has paid gross wages of \$1,500 or more in a calendar year. The taxes are payable at a rate of 2.7 percent on the first \$8,500 in annual wages of an employee.

Unemployment insurance must be reported and returns made to the state. For information contact:

*Georgia Department of Labor  
Adjudication Section, Sussex Place  
148 International Boulevard, Suite 850  
Atlanta, Georgia 30303-1751  
(404) 656-5590*

If a business employs three or more, workers' compensation insurance must be carried to provide protection to those injured on on-the-job accidents. The State Board of Workers' Compensation aids people who need claim assistance. For information contact:

*State Board of Workers' Compensation  
270 Peachtree Street NW  
Atlanta, Georgia 30303-1299  
(404) 656-3875*

Virtually all business entities are subject to the federal minimum wage, overtime and child labor laws.

Information on these laws and other federal laws pertaining to labor, may be obtained from:

*Daniel Bremer, District Director,  
U.S. Department of Labor  
Wage and Hour Division  
Room 668  
1375 Peachtree Street, NE  
Atlanta, Georgia 30367  
(404) 347-4258*

Incorporating a business allows a firm to take advantage of the limited liability of a corporation. A corporation is usually a taxpayer separate from its owners, unless the company decides it wants to be an "S" corporation for special tax consideration. Contact an attorney or accountant for information on just what each designation can mean to the firm

Legal assistance will be needed to incorporate. Basically, this involves checking with the Secretary of State to see if the name chosen for the business is available. Typed Articles of Incorporation must then be submitted, along with a fee. Additionally, a notice of incorporation must be published in the official legal newspaper for the county. There is also a fee for this printing. Each business must submit a consent from a person who will act as registered agent for service of process on the corporation. This consent must be filed along with the Articles of Incorporation. The articles must name at least three directors, unless the corporation will have two or fewer shareholders. For more information, contact:

*Secretary of State, Corporations Division  
306 West Tower, Floyd Building  
Two Martin Luther King Jr. Drive, SE  
Atlanta, Georgia 30334  
(404) 656-2185*

Trademarks and service marks may be registered under federal laws or state laws. In Georgia, an application form should be filed, along with a \$15 fee and copies of the trademark or service mark. Registration is then good for 10 years. In Georgia contact:

*Special Services Division, Secretary of State  
Corporations Division, 306 West Tower  
Floyd Building  
Two Martin Luther King Jr. Drive, SE  
Atlanta, Georgia 30334  
(404) 656-2861*

For federal information contact:

*U.S. Department of Commerce  
Trademark Office  
2021 Jefferson Davis Highway  
Arlington, Virginia 22202  
(703) 305-8341  
(800) 786-9199*

Businesses that use any name other than the owner's must register this fictitious name with the county as required by the Trade Name Registration Act. This registration requirement does not apply to corporations doing business under their corporate names or to those practicing any profession under a partnership name. For information contact the Clerk of the Superior Court for the county in which the business is located.

And last but not least, if an established business is to be bought, the purchaser must comply with the Bulk Sales Law. This law requires that at least five days before the actual purchase, each creditor must be personally notified of the proposed sale. In counties of more than 200,000 population, this intent must be published at least one time in the county legal newspaper not less than seven days prior to completion of the purchase. An attorney should be consulted about this procedure.