



TO: Mayor and Council
FROM: John McDonough, City Manager
DATE: December 14, 2010
ITEM: Occupation Tax Certificate Gross Receipts Calculation

Background:

Upon incorporation and beginning January 1, 2006, the City of Sandy Springs adopted into its Code of Ordinances the Occupation Tax language contained in the Fulton County Code. The adopted language is in essence the occupation tax language set forth in Georgia law. Subsequently, the City began collection of the Occupation Tax. During the course of collection of the Occupation Tax, certain issues have been raised by the business community regarding the City's implementation of the Occupation Tax. Specifically, questions have been raised as to the method of the City's calculation of gross receipt based upon services rendered to customers that reside outside of the state.

While the courts have affirmed the City's method of calculating gross receipts for services, it appears that as a matter of policy, the City should review its interpretation based upon the feedback of the business community. Addressing the community's concerns will help to insure that the City remains competitive in the marketplace and is responsive to the needs of its business community.

Accordingly, staff has prepared certain recommendations for Council's consideration to changes in the method of calculating and imposing the occupation tax. The staff seeks guidance from the Mayor and Council regarding the adoption of these policy recommendations.

Discussion:

1. Gross Receipts for Services Based Upon Location of the Customer

Based upon feedback from the business community, using the location of the customer (in Georgia or outside the state) to determine whether revenues for services rendered should be included within gross receipts would help resolve many of the issues which have been raised in objection to the City's method of implementing the Occupation Tax.

It appears Fulton County did not conduct in depth audits of its tax submissions; therefore taxes were not regularly remitted for gross receipts received for services rendered to customers located outside of Georgia. This is, apparently, the manner by which other competing jurisdictions in our area are also interpreting the law. A change in this policy should not directly impact the revenues the City has actually collected to date under the Occupation Tax. The policy would, however, require the abandonment of substantial claims which the City may have against businesses for service income derived from customers located outside of the state.

If changed, staff recommends the policy change be made effective from the inception of the City's Occupation tax, January 1, 2006, in order to have uniformity in application of the policy to all businesses in the City.

2. Franchise Fees Calculated Based Upon Location of the Franchisee

As a subset of the services issue set forth above, based upon feedback from the business community, allowing the location of a franchisee to determine whether revenues from franchise fees should be included within gross receipts would help resolve certain objections to the City's method of implementing the Occupation Tax.

Again, it appears Fulton County did not conduct in depth audits of its tax submission; therefore, taxes were not regularly remitted for franchisees fees received from businesses located outside of Georgia. Again, this is apparently the manner by which other competing jurisdictions in our area are interpreting the law. A change in this policy should not directly impact the revenues of the City has actually collected under the Occupation Tax. The policy would however, require the abandonment of substantial claims which the City may have against businesses for franchise fees income received from franchisees located outside the state.

If changed, staff recommends the policy change be made effective from the inception of the City's Occupation tax, January 1, 2006, in order to have uniformity in application of the policy to all businesses in the City

3. Modify the Maximum Tax Cap Payable for One Year

Fulton County did not have a tax cap on Occupation Tax under its ordinance. After the City of Sandy Springs began collection of an occupation tax, it imposed a cap in the amount of \$400,000.00 on September 15, 2007. Lowering the maximum tax paid by a business for any one year would place the City in a more competitive position to other jurisdictions in our area which seek large businesses to locate to their jurisdiction. It would also be responding to a concern raised by the business community.

The staff has prepared an analysis of the financial impact of revising the annual Occupation Tax cap. As this revision would apply to actual collections under the Occupation Tax, it would reduce the amount of taxes collected as the City moves forward. If changed, staff recommends it be effective beginning with calendar year 2011.

4. Provide an Across the Board Reduction in the Percentage Assessed Against Business Gross Receipts for Occupation Tax Purposes

Pursuant to the City's ordinance, businesses pay occupation taxes in different percentages based upon the profitability of the business, which classifications are established pursuant to a study conducted by the Carl Vinson Institute. Again, the City seeks to remain competitive with other jurisdictions in our area competing to have businesses locate to their jurisdiction.

One suggestion to maintain our competitive position, and which would benefit all businesses, is to reduce the percentage of Occupation Tax assessment across the board regarding all businesses by some percentage. Another alternative which has been suggested is to reduce the assessment by 10% for the first \$1,000.00 of tax collected from a business.



The staff has prepared an analysis of the financial impact of revising the Occupation Tax based upon each of these alternatives. As this revision would apply to actual collections under the Occupation Tax, it would reduce the amount of taxes collected as the City, and would be effective beginning with calendar year 2011.

Alternatives:

The Mayor and City Council may adopt, or reject, any of the above revisions to the Occupation Tax for the City.

*City
Manager*



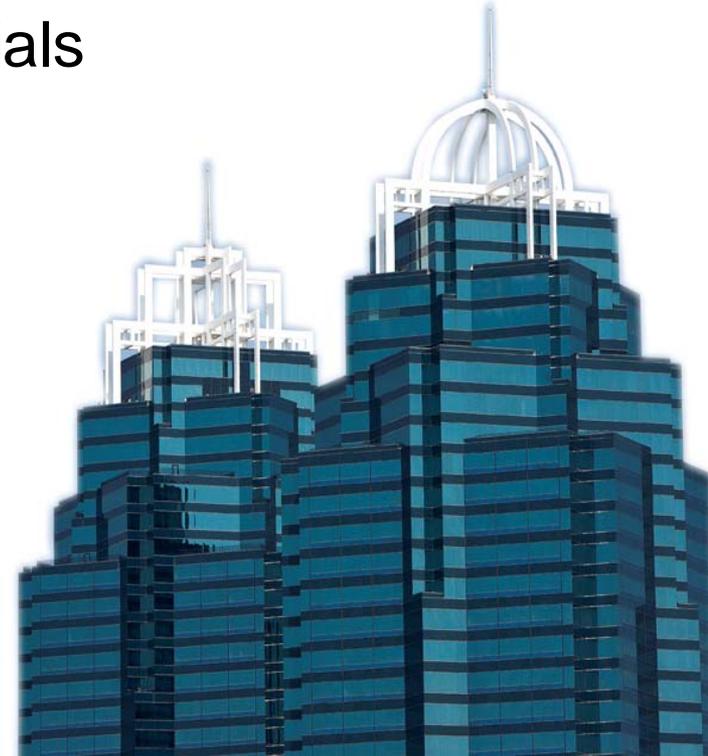
Business Occupation Tax Update

John McDonough, City Manager

December 21, 2010

Background

- At inception adopted Fulton County Business Tax Ordinance
- Questions raised about competitiveness in the City
- Study commissioned by Perimeter Business Alliance
- Review of study findings by city officials

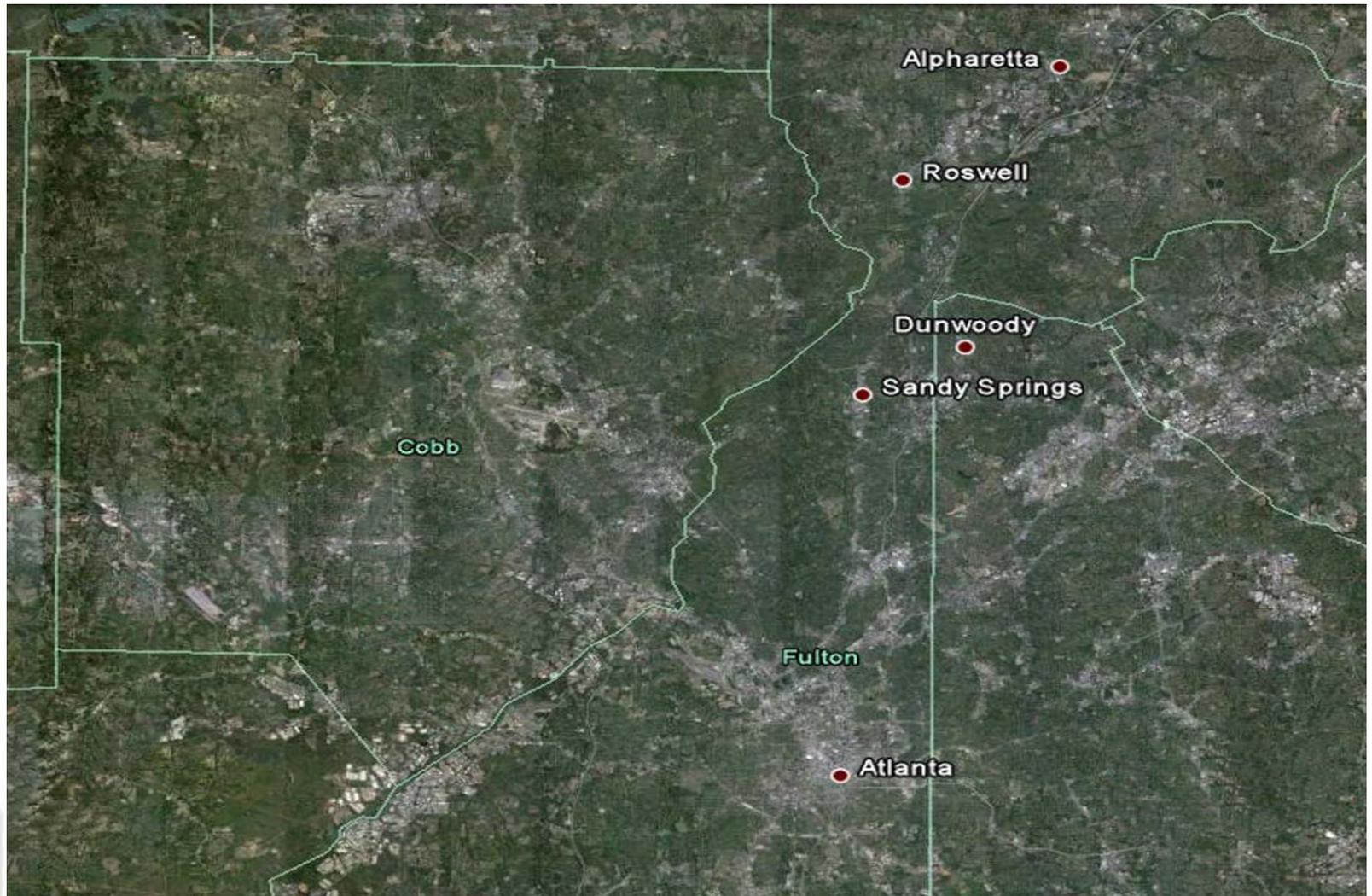


Perception vs Fact

Perception	Fact
Subsidiary companies subject to \$400,000 cap	Only parent companies subject to \$400,000 cap
Headquarters pay on gross receipts worldwide	Headquarters pay on services provided from Sandy Springs location



Comparison with other Jurisdictions



Comparison with other Jurisdictions

- Business: **Staffing Agency**
- Estimated Gross Receipts: \$200,000
- Estimated Employee Count: 3

Sandy Springs -\$416

Alpharetta -\$150

Atlanta -\$386

Dunwoody-\$231

Roswell -\$160

Cobb County-\$247



Comparison with other Jurisdictions

- Business: **Restaurant**
- Estimated Gross Receipts: \$1,500,000
- Estimated Employee Count: 25

Sandy Springs-\$2,152

Alpharetta-\$350

Atlanta-\$2,833.50

Dunwoody-\$1,595

Roswell-\$270

Cobb County-\$1,561



Comparison with other Jurisdictions

- Business: **Lessor of Real Estate**
- Estimated Gross Receipts: \$11,000,000
- Estimated Employee Count: 115

Sandy Springs-\$21,933

Alpharetta-\$1,005

Atlanta-\$25,428.50

Dunwoody-\$7,165

Roswell-\$720

Cobb County-\$7,801



Comparison with other Jurisdictions

- Business: **Headquarters**
- Estimated Gross Receipts: \$0.00
- Estimated Employee Count: 450

Sandy Springs-\$5,975

Alpharetta-\$3,350

Atlanta-\$6,950

Dunwoody-\$6,350

Roswell-\$2,395

Cobb County-\$163



Comparison with other Jurisdictions

- Business: **Business Services**
- Estimated Gross Receipts: \$500,000,000
- Estimated Employee Count: 1,000

Sandy Springs-\$400,000

Alpharetta-\$7,150

Atlanta-\$180,018.50

Dunwoody-\$404,034.40

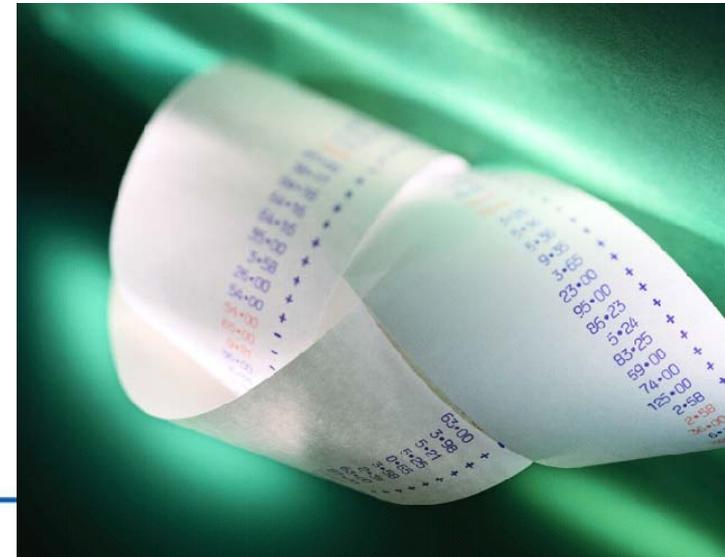
Roswell-\$5,095

Cobb County-\$111,246



Comparison of Caps on Gross Receipts

- Sandy Springs-Capped at \$400,000
- Atlanta-\$100,000,000 gross receipt cap
- Roswell-No Cap (however, No Gross Receipts Tax)
- Alpharetta- Capped at \$10,000 (does not charge off of gross receipts)
- Dunwoody- No Cap
- Cobb County- No Cap



Options for Council Consideration

- Change services exemption
 - Service companies, financial services companies, Mirant, Autotrader.com, computer services companies

- Change franchise fee exemption
 - AFC, Wendy's, Popeye's, Maid Brigade

- Change in cap



City of Sandy Springs

- Option 1 - Establish Out of State Sales Exemption
- Pro
 - Certainty/Ease of Calculation
- Con
 - Potential Loss of \$3.2 million/annually



City of Sandy Springs

- Option 2 - Establish Franchise Exemption
- Pro
 - Certainty/Ease of Calculation
- Con
 - Potential loss of \$150,000/annually



City of Sandy Springs

- Option 3 - Adjust Cap on Gross Receipts
- Pro
 - Establishes certainty for businesses
 - Makes Sandy Springs more competitive
 - Addresses perception issues
 - Responsive to business community
- Con
 - Reduced revenue to City



Financial Impact of Cap

- \$200,000 dollar cap
- Estimated cost to City of \$305,561

