

E. Attorneys-at-Law and Other Professionals (G.S. 105-41)

Every individual in this State who practices a profession or engages in a business and is included in the list below must obtain from the Secretary a statewide license for the privilege of practicing the profession or engaging in the business. A license required by this section is not transferable to another person. The tax for each license is fifty dollars (\$50.00).

1. Professions and/or Businesses Requiring a Privilege License:

- 1) An attorney-at-law.
- 2) A physician, a veterinarian, a surgeon, an osteopath, a chiropractor, a chiropractist, a dentist, an ophthalmologist, an optician, an optometrist, a massage and bodywork therapist, or another person who practices a professional art of healing.

G.S. 90-236 states that “fitting glasses on the face” constitutes practicing as a dispensing optician. Therefore, dispensing opticians fitting frames to customers’ faces, and making adjustments thereto, are subject to optician’s privilege license tax. (17 NCAC 04B.0609)

A physical therapist who independently applies physical therapy for a reward is practicing the art of healing and is therefore subject to privilege license. (17 NCAC 04B.0610)

A psychologist who engages in the art of healing for a fee or reward is subject to privilege license. The psychologist license is not levied on the practice of psychology, as such, but on persons engaged in the art of healing which does include psychologists if they engage in such activity. (17 NCAC 04B.0614)

In addition to the regulatory license issued by the State Board of Medical Examiners, a practicing physician shall apply for and obtain from the Secretary of Revenue a statewide physician privilege license. Varying situations involving a physician and the applicability of the physician privilege license tax for these situations are as follows:

- A physician in private practice, either exclusively or partially, is subject to the physician privilege license tax;
- A physician practicing his profession and compensated in part from a fund or “pool” derived in part or in full from fees charged for his services is subject to the physician privilege license tax notwithstanding the fact that some of his compensation may also come from appropriations, grants, business income (income from a “business” in the non-professional sense; for example, a physician employed by an industrial plant to attend its industrial employees at its plant), or other “non-fee” sources.

- 3) A professional engineer, as defined in G.S. 89C-3.
- 4) A registered land surveyor, as defined in G.S. 89C-3.
- 5) An architect, including any architect employed by another architect, who renders

architectural services.

- 6) A landscape architect, including any architect employed by another architect, who renders architectural services.
- 7) A photographer, a canvasser for any photographer, or an agent of a photographer in transmitting photographs to be copied, enlarged, or colored. A licensed photographer having a located place of business in this State is liable for the license tax on each agent or solicitor employed by the photographer for soliciting business.
- 8) A real estate broker or a real estate salesman, as defined in G.S. 93A-2. A real estate broker or a real estate salesman who is also a real estate appraiser is required to obtain only one license under this section to cover both activities.
- 9) A real estate appraiser, as defined in G.S. 93E-1-4. A real estate appraiser who is also a real estate broker or a real estate salesman is required to obtain only one license under this section to cover both activities.
- 10) A person who solicits or negotiates loans on real estate as agent for another for a commission, brokerage, or other compensation.
- 11) A funeral director, an embalmer, or a funeral service licensee licensed under G.S. 90-210.25.
- 12) A home inspector, as well as an associate home inspector, licensed under Article 9F of Chapter 143 of the General Statutes, the Home Inspector Licensure Act.
- 13) Public practice of accounting:

Every person engaged in the public practice of accounting as a principal, or as a manager of the business of public accountant, shall pay for such license fifty dollars (\$50.00), and in addition, shall pay a license tax of twelve dollars and fifty cents (\$12.50) for each person employed who is engaged in the capacity of supervising or handling the work of auditing, devising or installing systems of accounts.

A bookkeeper who acts as an independent contractor preparing tax returns for small business firms, as well as individuals, and charges for his services, is subject to accountant's privilege license, as such work requires training and skill in accounting. Also, an independent contractor who prepares income tax returns, other than the simplified individual returns, and charges for such work, is subject to accountant's privilege license. (17 NCAC 04B.0603)

G.S. 105-41 is purely a revenue measure and does not purport to be a regulatory measure. Certified public accountants have written into their statute a provision limiting the issuance of CPA privilege licenses to applicants who are duly licensed by their regulatory body, but this is not true with respect to other professions covered by G.S. 105-41, nor to

accountants who are not certified public accountants as defined in said regulatory laws. (17 NCAC 04B.0604)

2. Persons Exempt from the Tax (G.S. 105-41(b))

The following persons are exempt from the tax:

- a. A person who is at least seventy-five (75) years old.
- b. A person practicing the professional art of healing for a fee or reward, if the person is an adherent of an established church or religious organization and confines the healing practice to prayer or spiritual means.
- c. A blind person engaging in a trade or profession as a sole proprietor. A "blind person" means any person who is totally blind or whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or where the widest diameter of visual field subtends an angle no greater than 20 degrees. This exemption shall not extend to any sole proprietor who permits more than one person other than the proprietor to work regularly in connection with the trade or profession for remuneration or recompense of any kind, unless the other person in excess of one so remunerated is a blind person.
- d. A physician employed exclusively by the federal, state or local governments and not holding themselves out to the public and do not share in the fees paid are not required to pay the privilege license under G.S. 105-41 which would otherwise be imposed upon them. (17 NCAC 04B.0612)
- e. A physician practicing his profession but wholly compensated from appropriations, grants, business income (income from a "business" in the non-professional sense; for example, a physician employed by an industrial plant to attend its industrial employees at it plant), or from sources other than funds generated by fees charged for his services is not subject to the physician privilege license tax. (17 NCAC 04B.0611)
- f. A physician licensed by the State Board of Medical Examiners but not performing duties appropriate to his profession (for example, is the head of a State agency and has no medical practice) is not "practicing" and is not subject to the physician privilege license tax. (17 NCAC 04B.0611)
- g. A physical therapist who works only under the orders and direction of registered physicians and does not attempt to diagnose and independently apply physical therapy is not subject to privilege license under G.S. 105-41; however, persons who independently apply physical therapy for a reward are practicing the art of healing and are therefore subject to privilege license. (17 NCAC 04B.0610)
- h. A masseur or masseuse are not required to obtain a privilege license as persons "practicing any professional art of healing" under G.S. 105-41. (17 NCAC 04B.0608)
- i. A person employed by an architect as a draftsman only, and fees paid for his services

are not for architectural services rendered is not subject to an architect's license. An architect employed by another architect, who renders architectural services, is subject to architect's license under G.S. 105-41. (17 NCAC 04B.0605)

- j. A person selling grave plots only, even though a deed is given, is exempt from real estate broker's license. (17 NCAC 04B.0606)
- k. A land surveyor employed by a civil engineer who does not both survey the area and draw the description. (17 NCAC 04B.0607)

3. Licenses

Licenses issued under this section are issued as personal privilege licenses and shall not be issued in the name of a firm or corporation. If any person engages in more than one of the activities for which a privilege tax is levied by this section, the person is liable for a privilege tax with respect to each activity engaged in.

Counties and cities may not levy any license tax on the business or professions taxed under this section.

Obtaining a license required by this Article does not of itself authorize the practice of a profession, business, or trade for which a State qualification license is required.