

## General Instructions

Reports must be filed and taxes paid by the twentieth (20<sup>th</sup>) of each month following the month in which the tax accrues. Remittance should be made by check or money order payable to: Durham County Tax Collector. **DO NOT SEND CASH OR STAMPS.**

The following information is given to assist in completing the Durham County Hotel/Motel Occupancy Tax Return.

**OCCUPANCY TAX** – Six percent (6%) of gross receipts derived from rental of room, lodging, campsite, or similar accommodation furnished by any hotel, inn tourist camp including private residences and cottages rented to transients.

**EXEPTIONS** – This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations when furnished in furtherance of their nonprofit purpose. This tax also does not apply to any private residence or cottage that is rented for less than fifteen (15) days in a calendar year or to any room, lodging, or accommodation supplied to the same personal for a period of ninety (90) or more continuous days.

**ADMINISTRATION** – The county shall administer a tax levied under this act. A tax levied under this act is due and payable to the county tax collector in monthly installments on or before the twentieth (20) day of the month following the month in which the tax accrues. Every person, firm corporation, or association liable for the tax shall, on or before the twentieth (20) of each month, prepare and render a return on a form prescribed by the county. The return shall state the total gross receipts derived in the preceding month from rentals and sales upon which the tax is levied. Any On-line Travel Company (OTC)/Facilitator who contracts with a provider of an accommodation and to accept payment from the consumer for the accommodation shall report and pay according to GS 105-164.4(a)(3). A return filed with the Durham County Tax Collector under this act is not a public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

**PENALTIES** – Any person, firm, corporation or association who fails to file a return on the date it is due as required by this act shall pay a penalty equal to five percent (5%) of the amount of the tax due if the failure is for not more than one (1) month, with an additional five percent (5%) for each additional month or fraction thereof not to exceed twenty-five percent (25%) in the aggregate, or five dollars (\$5.00), whichever is greater. Any person, firm corporation or association who fails to pay the tax on the date it is due shall pay a penalty equal to ten percent (10%) of the amount of the tax due. Failure to both file a return AND pay the tax as required by this act shall result in imposition of BOTH penalties. Failure which is determined to be negligent, willful, or fraudulent will result in increased penalties and potential punishment as a Class 1 misdemeanor. G.S. 105-236.

Sign and date the form remitting a copy with a check or money payable to Durham County Tax Collector, tear off the bottom half copy for your records.

# SALES AND USE TAX TECHNICAL BULLETINS SECTION 27 SECTION 27 - HOTELS, MOTELS, INNS, TOURIST HOMES, TOURIST CAMPS AND CABINS AND

## PRIVATE RESIDENCES AND COTTAGES RENTED TO TRANSIENTS 27-1 TAXABLE GROSS RECEIPTS

### A. Retailers

All persons engaged in the business of operating hotels, motels, inns, tourist homes, tourist camps, and similar type businesses and all persons who rent private residences, condominiums or cottages to transients for consideration are deemed to be retailers and must register with the Department and collect and remit the tax herein required to be paid. The term **“persons who rent to transients,”** as used in this Bulletin, includes:

1. owners of private residences, cottages, apartments, condominiums, (time share and interval ownership properties as hereinafter described) and similar places; and
2. real estate agents, including **“real estate brokers”** as defined in G.S. 93A-2, who rent any such accommodations to transients on behalf of the owners.

When the rental agent is liable for the tax imposed, the owner is not liable. If the owner rents such accommodations to transients, the owner is liable for the tax and must register with this Department for sales and use tax purposes.

### B. Tax Rate

Gross receipts derived from the rental of any room or rooms, lodgings or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin and any private residence, condominium (time share and interval ownership properties), cottage or any other place in which rooms, lodgings or accommodations are furnished to transients for a consideration are subject to the general rate of State tax and any applicable local sales or use tax, except as set forth in Paragraphs C. and D. of this Bulletin or as otherwise provided by the statute.

### C. Rental For 90 Continuous Days

Receipts derived from the rental of any room, lodging or accommodation to the same person for a period of 90 continuous days or more are not subject to the tax, and the tax collected from any person prior to the accumulation of such 90 continuous days of occupancy by said person shall be refunded to such person by the retailer collecting the same. A retailer actually making any such refund of tax which he has paid to the Department shall be entitled to claim credit for the tax so refunded on a subsequent return filed by him with the Department.

### D. Occasional or Isolated Rental of a Private Residence or Cottage

Receipts derived from an occasional or isolated rental of a private residence or cottage by the owner for less than a total of 15 days in a calendar year are not subject to sales tax. The 14 days exclusion is applicable only to those private residences and cottages which are not made available for rental to transients. If the private residence or cottage is generally or routinely made available by the owner for rental to transients, the less than 15 days exclusions is not applicable to such rentals and all receipts therefrom are taxable without regard to the aforementioned period. When private residences and cottages are listed with real estate agents, including **“real estate brokers”** as defined in G.S. 93A-2, for rental to transients, such private residences and cottages are deemed to be generally available for rental to transients and the less than 15 days exclusion is not applicable to any receipts from such rentals to transients.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2007, SESSION LAW 2007-527, SENATE BILL 540

**SECTION 21.(b)** Section 39 of Part IX of Chapter 908 of the 1983 Session Laws reads as rewritten:

"**Sec. 39.** Every owner of a business subject to the tax levied by this Part shall, on and after the first day of the calendar month set by the governing body in the resolution levying the tax, collect the occupancy tax provided by this Part. This tax shall be collected as part of the charge for the furnishing of any taxable accommodations. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the owner of the business as trustee for and on account of the city. The occupancy tax levied under this Part shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the owner of the business. The city tax collector shall design, print, and furnish to all appropriate businesses in the city the necessary forms for filing returns and instructions to ensure the full collection of the tax. Every person liable for the tax imposed pursuant to this Part shall, on or before the ~~15th~~ 20th day of each month, prepare and submit a return on the prescribed form stating the total gross receipts derived during the preceding month from rentals upon which the tax is levied. The tax shall be due and payable to the tax collector on a monthly basis.

Any person who fails or refuses to file the return required by this Part shall pay a penalty of ten dollars (\$10.00) for each day's omission. In addition, any person who refuses to file the return or pay the tax for a period of 30 days after the time required for filing the return or for paying the tax shall pay a penalty of five percent (5%) of the tax due. An additional penalty of five percent (5%) shall be imposed for each additional month or fraction thereof in which the occupancy tax is not paid.

Any person who willfully attempts in any manner to evade the occupancy tax or who willfully fails to pay the tax or make and file the required return, shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both."

**SECTION 21.(oo)** This section becomes effective January 1, 2008.

## OCCUPANCY TAX QUESTIONS

### **When are Occupancy Taxes due?**

Occupancy Tax Forms and Occupancy Taxes are due on or before 20<sup>th</sup> day of the month following the month in which the tax accrues.

### **How much Occupancy Tax do I pay?**

Room occupancy tax is (6%) of the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the county that is subject to sales tax imposed by the State under G.S. 105-164.4(3).

### **Is Occupancy Tax the same as Sales Tax?**

No. This tax is in addition to any State or local sales tax.

### **Who is exempt from Occupancy Tax?**

This tax does not apply to accommodations furnished by nonprofit charitable, educational, or religious organizations, when furnished in furtherance of their nonprofit purpose. This tax does not apply to any private residence or cottage that is rented for less than 15 days in a calendar year or to any room, lodging, or accommodation supplied to the same person for a period of 90 or more continuous days.

### **Is the information on my Occupancy Tax form available to the public?**

Occupancy tax returns filed with the county tax office are not public record as defined by G.S. 132-1 and may not be disclosed except as required by law.

### **When are Occupancy Taxes considered late?**

After the 20<sup>th</sup> day of the month following the month in which the tax accrues. Postmarks will be honored.

### **What are the penalties for late payment?**

Any person who fails or refuses to pay occupancy taxes shall be subject to a penalty of ten dollars (\$10.00) for each day's delinquency, with an additional five percent (5%) of the taxes due if 30 days delinquent. Also, an additional five percent (5%) shall be imposed for each additional month or fraction thereof in which the occupancy tax is not paid.

### **Do I file an Occupancy Tax Report if my occupancy sales are zero?**

Yes. Any person who fails or refused to file an occupancy tax report shall be subject to ten dollars (\$10.00) for each day's omission.

### **Where do I get the Occupancy Tax forms?**

Forms are available on the county website. [tax.durhamcountync.gov](http://tax.durhamcountync.gov)