

ROOM OCCUPANCY TAX

QUESTION: Who is responsible for the collection of the room occupancy tax?

ANSWER: N.C.G.S. 105-164.4(3) states “Operators of hotels, motels, tourist homes, tourist camps and similar type of businesses and persons who rent private residences and cottages to transients are considered retailers under this Article. A tax at the general rate of tax is levied on the gross receipts derived by these retailers from the rental of any rooms, lodging, or accommodations furnished to transients for a consideration. 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.”

QUESTION: What is the amount of the room occupancy tax?

ANSWER: Effective January 1, 2012, Transylvania County levied a 5% room occupancy tax with the 5% calculated on gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by hotels, motels, tourist homes, tourist camps and similar type of businesses and persons who rent private residences and cottages to transients.

QUESTION: When is the tax due?

ANSWER: The room occupancy tax is due and payable to Transylvania County in monthly installments on or before the 20th day of the month following the month in which the tax accrues. The address is:

Transylvania County Finance Office
101 South Broad Street
Brevard, NC 28712

QUESTION: What is the penalty for failure to file a room occupancy tax return or pay a room occupancy tax?

ANSWER: A person who fails to file the room occupancy tax or pay the tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for state sales and use taxes. The penalty per G.S. 105-236 is as follows:

- Failure to File Return – the penalty is 5% of the amount of the tax if the failure is not more than one month, with an additional 5% for each additional month, or fraction thereof, during which the failure continues. The maximum failure to return penalty is 25% of the tax due. The minimum is \$5.00.
- Failure to Pay Tax When Due – the penalty for failure to pay the tax when due, without intent to evade the tax, is 10% of the tax due or a minimum of \$5.00.

Any question regarding the room occupancy tax should be directed to the county finance officer at 828/884-3104.

QUESTION: Section 7-21 states that an operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the state allows the operator for state sales and use tax. What is the discount allowed?

ANSWER: Currently the state does not allow a discount; so the answer is zero discount. If the state changes, the same discount would be allowed.

ARTICLE II. LODGING SALES TAX

SECTION 7-20. LEVY

There is hereby imposed and levied within the county effective January 1, 2012 the five (5) percent room occupancy tax with the five (5) percent being calculated on the gross receipts derived from the rental of any room, lodging, or similar accommodation furnished by hotel, motel, inn, or similar place within the county that is subject to the sales tax imposed by the state under G.S. 105-164.4(3). This tax is in addition to any state or local sales tax. This tax does not apply to accommodations furnished by nonprofit, charitable, educational or religious organizations.

SECTION 7-21. COLLECTION

Every operator of a business subject to a room occupancy tax shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records and shall be paid by the purchaser to the operator of the business as trustee for and on account of the taxing county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The taxing county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects a room occupancy tax may deduct from the amount remitted to the taxing county a discount equal to the discount the state allows the operator for state sales and use tax.

SECTION 7-22. DUE DATE

The room occupancy tax is due and payable to the county finance office in monthly installments on or before the 20th 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 20th day 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 upon which the tax is levied. A room occupancy tax return filed with the county finance office is not a public record and may not be disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

SECTION 7-23. VIOLATIONS

A person, firm, corporation, or association who fails or refuses to file a room occupancy tax return or pay a room occupancy tax as required by law is subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a return for state sales and use taxes. The board of commissioners may, for good cause shown, compromise or waive the penalties imposed by this section.

SECTION 7-24. USE OF TAX REVENUE

The county shall designate all revenue collected from the tax levied under this article in a special “travel and tourism” fund. The county can charge a percentage of room occupancy tax for collection and administration. Revenue in this fund may be used only to promote travel and tourism in the county.

SECTION 7-25. REPEAL OR REDUCTION

The room tax levied under this article may be repealed or reduced by a resolution adopted by the board of commissioners. Repeal or reduction of a room occupancy tax shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the resolution was adopted. Repeal or reduction of a room occupancy tax does not affect the liability for a tax that was attached before the effective date of the repeal or reduction, nor does it affect a right to a refund of a room tax that accrued before the effective date of the repeal or reduction.