

**CUMBERLAND COUNTY
RENTAL VEHICLE TAX
RULES AND REGULATIONS**

For the purposes of establishing standards and definitions which may be applied uniformly with regard to the implementation of the County and Municipal Rental Vehicle Tax, the Cumberland County Tax Collector, in accordance with the authorization provided by the County and Municipal Ordinances to Establish and Levy Rental Vehicle Tax hereby adopts the following Rules and Regulations with regard to the Rental Vehicle Tax.

GENERAL ADMINISTRATION

The Cumberland County Tax Administrator shall administer and collect the taxes levied from every person engaged in the business of short term leasing or rental of vehicles. The levy and collection of the tax shall be administered in the same manner as the sales and use tax as provided in Articles 5 and 9, Subchapter 1 of Chapter 105 of the General Statutes.

SUBJECT BUSINESSES

Subject Businesses include any entity engaged in the business of leasing or renting vehicles to the general public for short-term lease or rental.

Automobile Sales Dealers, Truck Sales Dealers, Trailer Sales Dealers, Recreational Vehicle Sales Dealers, Automobile Rental Agencies, Truck Rental Agencies, Trailer Rental Agencies, Equipment Rental Agencies, RV rental businesses and any other establishment, place of business or enterprise maintaining facilities, equipment, services, or inventory for the lease or rental of any type or kind of short-term lease or rental of a vehicle.

The following definitions apply in the collection of the Rental Vehicle Tax:

SHORT-TERM LEASE OR RENTAL

Defined in G.S. 105-187.1(4) as "a lease or rental that is made under a written agreement to lease or rent property to the same person for a period of less than 365 continuous days."

VEHICLE - Any of the following:

1. A motor vehicle of the private passenger type, including a passenger van, minivan or sport utility vehicle.
2. A motor vehicle of the cargo type, including cargo van, pickup truck or truck with a gross vehicle weight of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight and that does not require the operator to possess a commercial drivers license.
3. A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less

GROSS RECEIPTS

Includes the rental charges of a vehicle and all accessories (i.e. shipping pads, trailer hitch, hand truck, etc.) and miscellaneous administration fees (i.e. maintenance agreements, fuel charges, etc.).

The following items are not part of the gross receipts derived from the lease or rental of motor vehicles and are not subject to the gross receipts tax:

1. Any allowance for a motor vehicle taken in trade as partial payment on the lease or rental amount
2. Bad check fees which the lessor bills separately to the lessee
3. Penalties charged for late or delinquent lease payments which the lessor bills separately to the lessee
4. Insurance Premiums paid by the lessee directly to the insurer, or to the lessor as agent for the insurer, when the premium amounts are separately stated from the lease or rental charges
5. Optional maintenance agreements.

LEVY OF TAX

The tax is levied in the amount equal to one and one-half percent (1.5%) of the gross receipts as defined above, for the county and participating municipalities.

REPORT AND PAYMENT OF TAX

The tax is due and payable when a return is required to be filed. Returns are due to the Tax Administrator each month on or before the twentieth (20th) day of the month following the month in which the tax accrues. As provided in Section 132-1 of the General Statutes, a return shall not be considered a public record and information contained in a return may be disclosed only in accordance therewith. (The due date changed from the 15th to the 20th effective October 1, 2003.)

The return may be filed by personal delivery to the Tax Administrator or by United States mail. Returns submitted by mail shall be deemed to be filed as of the date shown on the postmark affixed by the United States Postal Service. If no date is shown on the postmark, or if the postmark is not affixed by the United States Postal Service, the return shall be deemed to be filed when received in the office of the Tax Administrator. The burden of proof shall be on the taxpayer to show that the return was timely filed.

TAXPAYER TO KEEP RECORDS

The taxpayer shall keep and preserve suitable records, books or accounts of the gross receipts received as may be necessary to determine the amount of tax for which the taxpayer is liable. It shall be the duty of the taxpayer to keep and preserve all records for a period of three (3) years. All records, books and accounts shall be available for examination at all reasonable hours during the day by the Tax Administrator or his duly authorized agent.

TAX ADMINISTRATOR TO PROVIDE FORMS

The tax administrator shall design, prepare, print and make available to all taxpayers operating within Cumberland County, form and instructions for filing returns. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.

SITUS

The transaction giving rise to the tax levied shall be deemed to have occurred at the location of the person from whom the customer takes delivery of the vehicle.

ASSESSMENT PROCEDURE

If the Tax Administrator discovers that any return or tax is due from a taxpayer, the taxpayer shall be notified in writing of the failure to file and of the proposed assessment, if known by the Tax Administrator. The assessment may be made on the best information available to the Tax Administrator. A proposed assessment is presumed to be correct. The notice shall be delivered either in person or by United States mail sent to the taxpayer's last known address. The notice is presumed to have been received by the taxpayer unless the taxpayer makes an affidavit to the contrary within 90 days after the notice was mailed. If the taxpayer makes this affidavit, the time limitations for a request for hearing apply as if the notice had been delivered on the date the taxpayer makes the affidavit.

A taxpayer who objects to the proposed assessment or to the requirement to file a return is entitled to a hearing upon written request within 30 days after the date the notice was mailed, or within 30 days after the date of personal delivery. If no request for a hearing is timely made, the proposed assessment becomes final without further notice.

If a taxpayer files a timely request for hearing, the Tax Administrator shall set a hearing date within 90 days, and notify the taxpayer at least 10 days prior to the hearing date. Within 90 days after the hearing, the Tax Administrator shall notify the taxpayer of the final decision. The taxpayer may then appeal the decision as set forth in the Appeal Section of the rules and regulations.

PENALTIES, INTEREST AND REMEDIES

1. Any taxpayer who fails to file a return on the date it is due, determined with regard to any extension of time for filing, shall pay a penalty equal to five percent (5%) of the amount of the tax if the failure to file is for not more than one month, with an additional five percent (5%) for each additional month, or fraction thereof, during which the failure continues, not exceeding twenty-five percent (25%) in the aggregate, or \$5.00, whichever is greater.
2. Any taxpayer who fails to pay the tax levied herein when due, without intent to evade the tax, shall pay a penalty equal to ten percent (10%) of the tax, except that the penalty shall in no event be less than \$5.00.
3. Taxes shall be payable at par or face amount if paid on or before the filing date as set forth in Section 5. Taxes paid after the filing date will be delinquent and shall be subject to interest charges. Interest shall accrue at the rate of three-fourths of one percent ($\frac{3}{4}\%$) a month or fraction thereof until the principal amount of the taxes, the accrued interest, and any penalties are paid.
4. When the bank upon which any uncertified check tendered to the Tax Administrator in payment of taxes, penalties or interest returns the check because of insufficient funds or the nonexistence of an account of the drawer, the Tax Administrator shall assess a penalty equal to ten percent (10%) of the check, subject to a minimum of one dollar (\$1.00) and a maximum of one thousand dollars (\$1,000.00).
5. Any taxpayer who willfully attempts, or any person who aids or abets any taxpayer to attempt in any manner to evade or defeat a tax imposed herein or its payment, shall, in addition to other penalties provided by law, be guilty of a Class H felony.
6. Any taxpayer required to collect, withhold, account for, and pay over any tax who willfully fails to collect or truthfully account for and pay over the tax shall, in addition to other penalties provided by law, be guilty of a Class I misdemeanor.
7. Any taxpayer required to pay any tax, to make a return, to keep any records, or to supply any information, who willfully fails to pay the tax, make the return, keep the records, or supply the information, at the time or times as required by law, or rules issued pursuant thereto, shall, in addition to other penalties provided by law, be guilty of a Class 1 misdemeanor.

8. The Tax Administrator shall have the rights of attachment and garnishment as set forth in Sections 242 or 368 of Chapter 105 of the General Statutes in enforcing the collection of taxes imposed herein, and any other remedies authorized by law.

APPEALS

The Cumberland County Board of Commissioners, exercising the powers of the Secretary of Revenue in collecting sales and use taxes, designates the Cumberland County Manager, or his designee, to act as deputy for the purpose of compromising or forgiving for good cause shown any penalty or additional tax imposed herein, and for conducting any hearings and making decisions to determine the validity of a tax imposed by the Tax Administrator. If a taxpayer claims that a tax, additional tax, penalty or interest is excessive, a notice of appeal must be filed by the taxpayer within 30 days after the final notice of the Tax Administrator is mailed or personally delivered to the taxpayer. The final decision of the deputy shall be made and mailed or delivered to the taxpayer within 30 days after the hearing. The taxpayer shall pay the tax, additional tax, penalty or interest without prejudice to any defense the taxpayer has. The taxpayer may file suit for a refund in the Superior Court of Cumberland County pursuant to the provisions of Section 267 of Chapter 105 of the General Statutes.

EFFECTIVE DATE

The effective date of taxes imposed and levied on the gross receipts of short-term rental vehicles is July 1, 2000.

Any questions regarding the Rental Vehicle Tax should be directed to the Tax Audit Department at (910) 678-7590.