

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 428
HOUSE BILL 152

AN ACT TO MODIFY THE BANNER ELK ROOM OCCUPANCY TAX.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 318 of the 1989 Session Laws reads as rewritten:

"**Sec. 2.** Administration of Tax. (a) The Town of Banner Elk shall administer a tax levied under this act. A tax levied under this act is due and payable to the town in monthly installments on or before the 15th day of the month following the month in which the tax accrues. Every person, firm, corporation, and association liable for the tax shall, on or before the 15th day of each month prepare and render a return on a form prescribed by the town. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied. A return filed with the county town 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.

(b) Any person, firm, corporation, or association who fails or refuses to file the return required by this act ~~shall pay a penalty of ten dollars (\$10.00) for each day's omission. In case of failure or refusal to file the return or pay the tax for a period of 30 days or more after the time required for filing the return or for paying the tax, there shall be an additional tax, as a penalty, of five percent (5%) of the total tax due, for each additional month or fraction thereof until the tax is paid.~~

~~Any person who willfully attempts in any manner to evade the occupancy tax levied under this act or who willfully fails to pay the tax or make and file a return shall, in addition to all other penalties provided by law, be guilty of a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000), imprisonment not to exceed six months, or both. The town council may, for good cause shown, compromise or forgive the penalties imposed by this subsection. 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 town council has the same authority to waive the penalties for a room occupancy tax that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

(c) All persons, firms, corporations, and associations who rent either their own dwelling or dwellings or rooms for other persons are required to submit to the town a list of all rented properties. This list shall include the owner's name and current address and the location of the rental property. The list shall be submitted semi-annually on or before November 30 and May 30. Failure to file this listing shall subject the person, firm, corporation, or association to a civil penalty of fifty dollars (\$50.00)."

Sec. 2. Section 4 of Chapter 318 of the 1989 Session Laws reads as rewritten:

"**Sec. 4.** Discount for Payment of Taxes When Due. Every operator who pays the occupancy tax imposed by this act may deduct from the amount of the tax for which he is liable and which he actually pays a discount ~~of three percent (3%).~~ equal to the discount the State allows the operator for collecting State sales and use taxes. Provided, however, the tax administrator may deny a taxpayer the benefit of this section for failure to pay the full tax when due as well as in cases of fraud, evasion, or failure to keep accurate and clear records as required. Provided, further, that in order to receive ~~the any~~ discount allowed the taxpayer must deduct the ~~three percent (3%) discount~~ at the time of making the monthly remittance of tax to the town."

Sec. 3. Section 5 of Chapter 318 of the 1989 Session Laws reads as rewritten:

"**Sec. 5.** Disposition of Taxes Collected. The town council shall use at least two-thirds of the room occupancy tax proceeds to promote travel and tourism and shall use the remainder of the proceeds only for tourism-related expenditures. The term 'promote travel and tourism' means to advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area; the term includes administrative expenses incurred in engaging in the listed activities. The term 'tourism-related expenditures' means expenditures that are designed to increase the use of lodging facilities in the town or to attract tourists or business travelers to the town and expenditures incurred by the town in collecting the tax. The term includes expenditures to construct, maintain, operate, or market a convention or meeting facility, a visitors' center, or a coliseum and other expenditures that, in the judgment of the town council, will facilitate and support tourism.

The town may retain its costs of collecting the tax, not to exceed seven percent (7%) of the amount collected.

~~For the purpose of this section, 'net proceeds' means gross proceeds less the direct costs for administrative and collection expenses not to exceed three percent (3%) of the amount collected, which shall be retained by the town. The net proceeds shall be distributed to the town council. The town council may expend the funds distributed to it pursuant to this section only to further the development of travel, tourism, conventions, and convention facilities in the town."~~

Sec. 4. This act is effective upon ratification and applies to room occupancy taxes collected by the Town of Banner Elk on or after that date.

In the General Assembly read three times and ratified this the 22nd day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives