

**AN ORDINANCE  
LEVYING A TAX ON GROSS RECEIPTS DERIVED FROM  
RETAIL SHORT-TERM LEASE OR RENTAL OF VEHICLES**

**WHEREAS**, the North Carolina General Assembly has ratified Senate Bill 1076, which has been designated as Session Law 2000-2 (the "Act") and made effective for taxable years beginning on or after July 1, 2000, and

**WHEREAS**, the Act repealed the property tax on certain vehicles leased or rented under retail short-term leases or rentals and authorized municipalities to replace the lost revenue through enactment of a local tax on gross receipts derived from retail short-term leases or rentals.

**NOW, THEREFORE, BE IT ORDAINED** by the Duplin County Board of Commissioners that:

Section 1. Definitions. In addition to the common meanings of words, the following definitions shall be applicable herein:

- (a) "Customer" shall mean any person that leases or rents a vehicle on a short-term lease or rental basis.
- (b) "General Statutes" shall refer to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.
- (c) "Gross receipts" shall mean the amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.
- (d) "Lease or rental" shall mean a transfer, for consideration, of the use but not the ownership of property to another for a period of time. (G.S. 105-164.3(7a))
- (e) "Long-term lease or rental" shall mean a lease or rental made under a written agreement to lease or rent property to the same person for a period of at least three hundred sixty-five (365) continuous days. (G.S. 105-187.1(3)).
- (f) "Person" shall mean any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.
- (g) "Short-term lease or rental" shall mean any lease or rental of a vehicle that is not a long-term lease or rental. (G.S. 160A-215.1(e)(2) and G.S. 105-187.1(4)).
- (h) "Taxpayer" means any person liable for the taxes imposed by this Ordinance.
- (i) "Vehicle" shall mean any of the following:
  - (i) a motor vehicle of the private passenger type, including a passenger van, minivan, or sport utility vehicle.

- (ii) a motor vehicle of the cargo type, including a 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.
- (iii) a trailer or semi-trailer with a gross vehicle weight of 6,000 pounds or less (G.S. 160A-215.1(e)(1))

Section 2. Levy of Tax. A tax is hereby imposed and levied in an amount equal to one and one-half percent (1.5%) of the gross receipts derived from the short-term lease or rental of vehicles at retail to the general public. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. 160A-211.

Section 3. Collection of the Tax. Every person engaged in the business of the short-term lease or rental of vehicles at retail to the general public shall collect at the time of the lease or rental the tax herein levied, place the tax so collected in a segregated account, and thereafter remit such tax to Duplin County in accordance with the provisions of this Ordinance. The taxpayer shall include a provision in each retail short-term lease or rental agreement stating that the percentage amount enacted by this Ordinance of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and show separately on the taxpayers records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of Duplin County. The taxpayer shall be liable for the collection thereof and for its payment to Duplin County and the taxpayer's failure to charge or to collect said tax from the customer shall not affect such liability.

Section 4. Report and Payment of Tax. Taxes levied under this Ordinance are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to Duplin County on the form prescribed by Duplin County. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to Duplin County each month on or before the fifteenth (15<sup>th</sup>) day of the month following the month in which the tax accrues. A return filed for this purpose is not a public record as defined by Section 132-1 of the General Statutes and information contained in a return may not be disclosed except as required by law.

Section 5. Taxpayer to Keep Records. The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this Ordinance.

Section 6. Duplin County to Provide Forms. Duplin County shall design, prepare, print and make available to all taxpayers operating within the boundaries of Duplin County forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. 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.

Section 7. Situs. The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle. (G.S. 160A-215.1(b))

Section 8. Penalties, Interest, and Remedies. The provisions with respect to penalties, interest and remedies applicable to Subchapter VIII (Local Government Sales and Use Tax) of Chapter 105 of the General Statutes, as contained in Article 5 and Article 9, Subchapter 1, Chapter 105 thereof, and the provisions applicable to remedies provided by the Machinery Act (Chapter 105, Subchapter II of the General Statutes), shall be applicable in like manner to the tax levied and collected under this Ordinance, to the extent that the same are not inconsistent with the provisions hereof.

Without limiting the foregoing, and subject to any changes in the General Statutes with respect to penalties, interest and remedies, the following shall be applicable with respect to the levy and collection of the taxes imposed herein:

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 (25%) in the aggregate, or \$5.00, whichever is greater.

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.

Taxes shall be payable at par or face amount if paid on or before the filing date as set forth in Section 4. 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 (3/4%) a month or fraction thereof until the principal amount of the taxes, the accrued interest, and any penalties are paid.

When the bank upon which any uncertified check tendered to Duplin County in payment of taxes, penalties or interest returns the check because of insufficient funds or the nonexistence of an account of the drawer, the County 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).

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.

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 1 misdemeanor.

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 misdemeanor.

If a corporation or a limited liability company fails to file any return or pay the tax required for 90 days after it is due, the County shall inform the Secretary of State of this failure pursuant to the provisions of Section 230 of Chapter 105 of the General Statutes.

Duplin County 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.

Section 9. Administration. In addition to the provisions herein, the levy and collection of the taxes herein imposed shall be otherwise administered in the same manner as the Sales and Use Tax as provided in Article 5, Subchapter 1, Chapter 105 of the General Statutes. (G.S. 160A-215.1(d))

Section 10. Severability. If any section, clause, or provision of this Ordinance shall be found to be invalid, the validity of the remaining sections, clauses or provisions shall not be affected thereby.

Section 11. Authority. This ordinance is enacted pursuant to the provisions of G.S. 153A-156.

Section 12. Effective Date. This Ordinance and the taxes thereby levied and imposed shall become effective August 1, 2000.

Adopted this the 24<sup>th</sup> day of July, 2000.

Zettie Williams  
Chairman, Duplin County Board of Commissioners

ATTEST: James W. Barnhardt, Jr.  
Clerk