

*Tompkins County, NY  
Friday, May 31, 2019*

## Chapter 150. Taxation

### Article II. Hotel Room Occupancy Tax

[Adopted by the Board of Supervisors (now County Legislature) of Tompkins County 8-15-1989 by L.L. No. 4-1989]

#### § 150-6. Title.

This article shall be known as the "Tompkins County Hotel Room Occupancy Tax Law."

#### § 150-7. Intent.

The intent of this article shall be to enhance the general economy of Tompkins County, its cities, towns and villages through promotion of tourist activities, conventions, trade shows, special events and other directly related and supporting activities.

#### § 150-8. Text.

[Amended 5-7-1991 by L.L. No. 1-1991]

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## § 150-9. Definitions.

As used in this article, the following terms shall have the meanings indicated:

### **COUNTY ADMINISTRATOR**

The budget officer for the County of Tompkins.

### **HOTEL**

A facility or portion thereof that is used for the lodging of paying guests. The term "hotel" includes, but is not limited to, an apartment hotel, a motel, guest house, or facility known as a "bed-and-breakfast" tourist facility, whether or not meals are served.

[Amended 1-19-2016 by L.L. No. 1-2016]

### **OCCUPANCY**

The use or possession, or the right to the use or possession of any room in a hotel.

### **OCCUPANT**

A person who, for a consideration, uses, possesses, or has the right to use or possess any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

### **OPERATOR**

Any person operating a hotel in Tompkins County, including but not limited to the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.

### **PERMANENT RESIDENT**

Any occupant of any room or rooms in a hotel for at least 30 consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

### **PERSON**

An individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

### **RENT**

The consideration received for occupancy valued in money, whether received in money or otherwise.

**RETURN**

Any return filed or required to be filed as herein provided.

**ROOM**

Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

**§ 150-10. Imposition of tax.**

[Amended 5-7-1991 by L.L. No. 1-1991; 12-5-2001 by L.L. No. 7-2001; 6-4-2002 by L.L. No. 2-2002]  
On or after the fifth day of September 1989, there is hereby imposed and there shall be paid a tax of 3% of a room or rooms in a hotel in this County of the rent for every occupancy, except that the tax shall not be imposed upon a permanent resident of the hotel, nor where the rent is not more than at the rate of \$4 per day. On or after the first day of May 2002, there is hereby imposed and there shall be paid a tax of 4% of the rent for every occupancy of a room or rooms in a hotel in this County, except that the tax shall not be imposed upon a permanent resident of the hotel, nor where the rent is not more than at the rate of \$4 per day. On or after the first day of December 2002, there is hereby imposed and there shall be paid a tax of 4.5%, except that the tax shall not be imposed upon a permanent resident of the hotel, nor where the rent is not more than at the rate of \$4 per day. On or after the first day of June 2003, there is hereby imposed and there shall be paid a tax of 5%, except that the tax shall not be imposed upon a permanent resident of the hotel, nor where the rent is not more than at the rate of \$4 per day.

**§ 150-11. Transitional provisions.**

The tax imposed by this article shall be paid upon any occupancy on and after the fifth day of September 1989, although such occupancy is pursuant to a prior contract, lease, or other arrangement. Where rent is paid or payable on a weekly, monthly, or other term, the rent shall be subject to the tax imposed by this article to the extent that it covers any period on and after the fifth day of September 1989.

**§ 150-12. Exemptions.**

[Amended 5-7-1991 by L.L. No. 1-1991]

- A. This article shall not authorize the imposition of such tax upon any transactions by or with any of the following in accordance with § 1230 of the Tax Law:
- (1) The State of New York or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), improvement districts or political subdivisions of the state; and
  - (2) The United States of America or any of its agencies and instrumentalities, insofar as it is immune from taxation.
- B. This article shall not authorize the imposition of such tax upon any transactions by any of the following in accordance with § 1230 of the Tax Law:
- (1) Any corporation, association, trust, community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided,

however, that nothing in this subdivision shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this subdivision.

- C. The hotel operator shall submit such written proof as may be required to show that the use or occupancy falls within the aforescribed exempt categories. In the absence of such documentation, the tax must be collected by the operator.
- D. Bed-and-breakfast inns shall be exempt from the tax in this article to the extent such tax exceeds 3%. A bed-and-breakfast inn is defined as an owner-operated and -managed structure or structures of no more than 10 guest rooms for paying guests lodged on an overnight basis. Such establishments may serve breakfast, the cost of which is included as part of the room-rate paid for overnight lodging.  
[Added 12-5-2001 by L.L. No. 6-2001; amended 4-16-2002 by L.L. No. 1-2002]

## § 150-13. Territorial limitations.

The tax imposed by this article shall apply only to occupancies within the territorial limits of the County of Tompkins.

## § 150-14. Registration.

Within three days after commencing hotel business in Tompkins County, every operator shall file with the County Administrator's Office a certificate of registration in a form prescribed by the County Administrator. Within five days after such registration, the County Administrator shall issue without charge to each operator a certificate of authority empowering such operator to collect the tax from the occupant and duplicate thereof for each additional hotel of such operator. Each certificate or duplicate shall state the hotel to which it is applicable. Such certificates of authority shall be prominently displayed by the operator in a manner that it may be seen and come to the notice of all occupants and persons seeking occupancy in the hotel to which it applies. Such certificates shall be nonassignable and nontransferable, and shall be surrendered immediately to the County Administrator upon the cessation of business at the hotel named or upon its sale or transfer.

## § 150-15. Administration and collection.

- A. The tax imposed by this article shall be administered and collected by the Tompkins County Administrator, or other fiscal officers of the County as the Administrator may designate by such means and in such manner as are other taxes which are now administered and collected by such officers in accordance with the County Charter and Code, or as otherwise provided by this article.
- B. The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof at the time when the occupancy is arranged or contracted or contracted and charged for, and upon every evidence of occupancy or any bill, statement or charge made for said occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator as trustee for and on account of the County, and the operator shall be liable for the tax and collection of same. The operator and any officer of any corporate operator shall be personally liable for the tax collected or required to be collected under this article. The operator shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant, as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of an innkeeper's lien that the innkeeper may have in the event of nonpayment of rent by the occupant; provided, however, that the

County Administrator or other designated fiscal officer(s), employees or agents shall be joined as a party in any action or proceeding brought by the operator to collect or enforce collection of the tax.

- C. The County Administrator may, wherever deemed necessary for the proper enforcement of this article, provide by regulation that the occupant shall file returns and pay directly to the County Administrator the tax herein imposed, at such times as returns are required to be filed and payment made by the operator.
- D. The tax imposed by this article shall be paid upon any occupancy on and after September 5, 1989, although such occupancy is had pursuant to a contract, lease, or other arrangement made prior to such date. Where rent is paid, charged, billed or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the period on and after September 5, 1989. Where any tax has been paid hereunder upon any rent which has been ascertained to be worthless, the County Administrator may, by regulation, provide for the credit and/or refund of the amount of such tax upon application therefor as provided in § **150-21** of this article.
- E. For the purpose of the proper administration of this article, and to prevent evasion of the tax hereby imposed, it shall be presumed that all rents are subject to tax until the contrary is established. The burden of proving that a rent for occupancy is not taxable hereunder shall be upon the operator, except that, where by regulation pursuant to Subsection **C** of this section, an occupant is required to file returns and pay directly to the County Administrator the tax herein imposed, the burden of proving that a rent for occupancy is not taxable shall be upon the occupant. Where an occupant claims exemption from the tax under the provisions of § **150-12** of this article, the rent shall be deemed taxable hereunder unless the operator shall receive from the occupant claiming such exemption a certificate duly executed by an exempt corporation or association certifying that the occupant is its agent, representative, or employee, together with a certificate executed by the occupant that the occupancy is paid or to be paid by such exempt corporation or association, and is necessary or required in the course of or in connection with the occupant's duties as a representative of such corporation or association. Where deemed necessary by the operator, the operator may further require that any occupant claiming exemption from the tax furnish a copy of a certificate issued by the County Administrator certifying that the corporation or association therein named is exempt from the tax under § **150-12** of this article.

## § 150-16. Records to be kept.

[Amended 5-7-1991 by L.L. No. 1-1991]

Every operator shall keep records of every occupancy, of all rent paid, charged, or due, and of the tax payable thereon, in such form as the County Administrator may require by regulation. Such records shall be available for inspection and examination at any time upon demand by the County Administrator or his duly authorized employee or agent, and shall be preserved for a period of five years, except that the County Administrator may consent to their destruction within that period or may require that they be kept longer.

## § 150-17. Returns.

- A. Every operator shall file with the County Administrator a return of occupancy, of rents, and of taxes payable thereon for the periods ending February 28, May 31, August 31, and November 30 of each year, on and after September 5, 1989. Such returns shall be filed within 20 days from the expiration of the period covered thereby. The County Administrator may permit or require returns to be made by other periods and upon such dates as may be specified. If the County Administrator deems it necessary in order to ensure the payment of the tax imposed by this

article, returns may be required for shorter periods than those prescribed pursuant to the foregoing provisions of this section and upon such dates as may be specified.

- B. The form of returns shall be prescribed by the County Administrator and shall contain such information as may be deemed necessary for the proper administration of this article. The County Administrator may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.
- C. If a return required by this article is not filed, or a return when filed is incorrect or insufficient on its face, the County Administrator shall take the necessary steps to enforce the filing of such a return or of a corrected return.

## § 150-18. Payment of tax.

At the time of filing a return of occupancy and of rents, each operator shall pay to the County Administrator the taxes imposed by this article upon rents required to be included in such return, as well as all other moneys collected by the operator acting or purporting to act under the provisions of this article. Where the County Administrator deems it necessary to protect revenues to be obtained under this article, any operator required to collect the tax imposed by this article may be required to file a bond, issued by a surety company authorized to transact business in this state and approved by the Superintendent of Insurance of this state as to solvency and responsibility, in such amount as the County Administrator may fix to secure the payment of any tax and/or penalties and interest due or which may become due from such operator. In the event that the County Administrator determines that an operator is to file such a bond, notice to the operator shall be given to that effect, specifying the amount of the bond required. The operator shall file the bond within five days after the giving of notice unless within those five days the operator requests, in writing, a hearing before the County Administrator, at which the necessity, propriety, and amount of the bond shall be determined by the County Administrator. This determination shall be final and shall be complied with within 15 days after the giving of notice thereof. In lieu of a bond, securities approved by the County Administrator or cash in the amount prescribed may be deposited into the custody of the County Administrator, who may at any time, without notice to the depository, apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold at public or private sale without notice to the depositor thereof.

## § 150-19. Determination of tax.

If a return required by this article is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the County Administrator from obtainable information. If necessary, the tax may be estimated on the basis of external indices, such as number of rooms, location, scale of rents, comparable rents, type of accommodations and service, number of employees and/or other factors. Notice of such determination shall be given to the person liable for the collection and/or payment of the tax. Such determination shall finally and irrevocably fix the tax unless the person against whom it is assessed, within 30 days after giving notice of such determination, applies to the County Administrator for a hearing, or unless the County Administrator redetermines the same. After such a hearing, the County Administrator shall give notice of the determination to the person against whom the tax is assessed. The determination of the County Administrator shall be reviewable for error, illegality, unconstitutionality, or any other reason whatsoever by proceeding under Article 78 of the Civil Practice Law and Rules if application thereof is made to the Supreme Court within 30 days after the filing of the notice of such determination. A proceeding under Article 78 of the Civil Practice Law and Rules shall not be instituted unless the amount of any tax sought to be reviewed with penalties and interest thereon, if any, is first deposited with the County Administrator and an undertaking is filed with the County Administrator, issued by a surety company authorized to transact business in this state, approved by the Superintendent of Insurance of this state as to solvency and responsibility, in an amount approved by a Supreme Court

Justice, to the effect that if the proceeding is dismissed or the tax confirmed, the petitioner will pay all charges and costs which may accrue in the prosecution of the proceeding, or, at the option of the applicant, such undertaking filed with the County Administrator may be in a sum sufficient to cover the taxes, penalties and interest thereon stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding. In that event, the applicant will not be required to deposit such taxes, penalties and interest as a condition precedent to the application.

## § 150-20. Disposition of revenues.

All revenues resulting from the imposition of the tax under this article shall be paid into the treasury of the County, credited to and deposited in the general fund of the County, thereafter to be allocated for tourism and convention development; except, however, that the County is hereby authorized to retain up to a maximum of 10% of such revenue to defer the necessary expenses of the County in administering the tax. The revenue derived from the tax, after deducting the amount provided for administering such tax, as so authorized by this article, shall be allocated to enhance the general economy of Tompkins County, its cities, towns and villages, through promotion of tourist activities, conventions trade shows, special events and other directly related and supporting activities.

## § 150-21. Refunds, revisions or credits.

- A. In the manner provided in this section, the County Administrator shall refund or credit, without interest, any tax, penalty or interest erroneously, illegally or unconstitutionally collected or paid if application to the County Administrator for such refund is made within one year from the payment thereof. Whenever a refund is made by the County Administrator, the reason therefor shall be stated in writing. Such application may be made by the occupant, operator, or other persons who has actually paid the tax. Such application may also be made by an operator who has collected and paid over such tax to the County Administrator, provided that the application is made within one year of the payment by the occupant to the operator. However, no actual refund of moneys shall be made to such operator until it is first established to the satisfaction of the County Administrator under such regulations as the County Administrator by authority of the County Legislature may prescribe, that the operator has repaid to the occupant the amount for which the application for refund is made. In lieu of any refund required to be made, the County Administrator may allow credit therefor on payments due from the applicant.
- B. An application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty or interest complained of, and the County Administrator may receive evidence with respect thereto. After making determination, the County Administrator shall give notice thereof to the applicant, who shall be entitled to review said determination by a proceeding pursuant to Article 78 of the Civil Practice Law and Rules, provided that the proceeding is instituted within 30 days after the giving of the notice of determination, and provided that a final determination of tax due was not previously made. Such a proceeding shall not be instituted unless an undertaking is filed with the County Administrator in an amount and with sureties approved by a Justice of the Supreme Court to the effect that if such proceedings are dismissed or the tax confirmed, the petitioner will pay all costs and charges that may accrue in the prosecution of said proceeding.
- C. A person shall not be entitled under this section to a revision, refund, or credit of a tax, interest, or penalty that had been determined to be due pursuant to the provisions of this § **150-21** where said person has had a hearing or an opportunity for a hearing as provided in this section, or who has failed to avail himself of the remedies provided therein. No refund or credit of a tax, interest, or penalty paid after a determination by the County Administrator pursuant to § **150-19** of this article shall be paid unless it is found that the determination was erroneous, illegal, unconstitutional or otherwise improper by the County Administrator after a hearing or of his own motion, or in a proceeding under Article 78 of the Civil Practice Law and Rules pursuant to the

provisions of said section. In that event, refund or credit without interest shall be made of the tax, interest or penalty found to have been overpaid.

## § 150-22. Remedies exclusive.

The remedies provided by §§ **150-19** and **150-21** of this article shall be exclusive remedies available to any person for the review of tax liability imposed by this article. No determination, proposed determination of tax nor determination on any application for refund shall be enjoined or reviewed except as hereinafter provided, by an action for declaratory judgment, an action for money had and received, or by any action or proceeding other than a proceeding in the nature of a certiorari proceeding under Article 78 of the Civil Practice Law and Rules. A taxpayer may, however, proceed by declaratory judgment if he/she institutes suit within 30 days after a deficiency assessment is made and pays the amount of the deficiency assessment to the County Administrator prior to the institution of such suit and posts a bond for costs as provided in § **150-19** of this article.

## § 150-23. Proceedings to recover tax.

- A. Whenever any operator, any officer of a corporate operator, any occupant, or other person fails to collect and pay over any tax and/or penalty or interest as imposed by this article, the County Attorney shall, at the request of the County Administrator, bring or cause to be brought an action to enforce the payment of the same on behalf of the County in any court of the State of New York or of any other state or of the United States. If, however, the County Administrator believes that any such operator, officer, occupant, or other person is about to cease business, leave the state, or remove or dissipate the assets out of which the tax or penalties might be satisfied, and that any such tax or penalty will not be paid when due, such tax or penalty may be declared to be immediately due and payable, and the County Administrator may issue a warrant immediately.
- B. As an additional or alternate remedy, the County Administrator may issue a warrant, directed to the Sheriff, commanding the Sheriff to levy upon and sell the real and personal property of the operator, officer of a corporate operator, or other person liable for the tax, which may be found within the County for the payment of the amount thereof, with any penalties and interest, and the cost of executing the warrant, and to return such warrant to the County Administrator and to pay to the County Administrator the money collected by virtue thereof within 60 days after the receipt of said warrant. Within five days after the receipt of the warrant, the Sheriff shall file a copy of same with the County Clerk. Thereupon the Clerk shall enter in the judgment docket the name of the person stated in the warrant, the amount of the tax, penalties, and interest for which the warrant is issued, and the date when such copy is filed. Thereupon the amount of such warrant so docketed shall become a lien upon the interest in real and personal property of the person against whom the warrant is issued. The Sheriff shall then proceed upon the warrant in the same manner and with like effect as that provided by law in respect to executions issued against property upon judgments of the court of record. For services in executing the warrant, the Sheriff shall be entitled to the same fees, which may be collected in the same manner. In the discretion of the County Administrator, a warrant of like terms, force, and effect may be issued and directed to any officer or employee of the County Administrator. In the execution thereof, such officer or employee shall have all the powers conferred by law upon sheriffs, but shall be entitled to no fee or compensation in excess of the actual expenses paid in the performance of such duty. If a warrant is returned not fully satisfied, the County Administrator may, from time to time, issue new warrants and shall also have the same remedies to enforce the amount due thereunder as if the County has recovered judgment therefor and execution thereon has been returned unsatisfied.
- C. Whenever an operator makes a sale, transfer, or assignment of any part or the whole of the hotel or lease, license, or other agreement or right to possess or operate such hotel or the

equipment, furnishings, fixtures, supplies or stock of merchandise, or the said premises or lease, license or other agreement or right to possess or operate such hotel and equipment, furnishings, fixtures, supplies and stock of merchandise pertaining to the conduct or operation of said hotel, other than in the ordinary and regular prosecution of business, the purchaser, transferee or assignee shall, at least 10 days before taking possession of the subject of said sale, transfer or assignment, or before making payment, notify the County Administrator by registered mail of the proposed sale and the price, terms and conditions thereof, whether or not the seller, transferor or assignor has represented to or informed the purchaser, transferee, or assignee that it owes any tax pursuant to this article, whether or not the purchaser, transferee, or assignee has knowledge that such taxes are owing, and whether any such taxes are in fact owing.

- D. Whenever the seller, transferor, or assignor fails to give notice to the County Administrator as required above, or whenever the County Administrator informs the purchaser, transferee, or assignee that a possible claim for such tax(es) exists, any sums of money, property, choses in action, or other consideration which the purchaser, transferee or assignee is required to transfer over to the seller, transferor, or assignor shall be subject to a first priority right and lien for any such taxes theretofore or thereafter determined to be due from the seller, transferor, or assignor to the County. The purchaser, transferee, or assignee is then forbidden to transfer to the seller, transferor, or assignor any such sums of money, property, or choses in action to the extent of the amount of the County's claim. For failure to comply with the provisions of this subsection, the purchaser, transferee, or assignee, in addition to being subject to the liabilities and remedies imposed under the provisions of Article 6 of the Uniform Commercial Code, shall, as well as the seller, transferor, or assignor, be personally liable for the payment to the County of any such taxes theretofore or thereafter determined to be due to the County from the seller, transferor, or assignor. Such liability may be assessed and enforced in the same manner as the liability for tax under this article.

## § 150-24. General powers of the County Administrator.

In addition to the powers granted in this article, the County Administrator is hereby authorized and empowered to:

- A. Extend for cause shown, the time of filing any return for a period not exceeding 30 days; and for cause shown, to remit penalties but not interest; and to compromise disputed claims in connection with the taxes hereby imposed;
- B. Request information from the Tax Commission of the State of New York or the Treasury Department of the United States relative to any person; and to afford information to such Tax Commission or Treasury Department relative to any person, notwithstanding any other provision of this article;
- C. Delegate functions hereunder to a Deputy County Administrator or any employees of County Administration;
- D. Prescribe methods for confirming the rents for occupancy and to confirm the accuracy of information on the taxable and nontaxable rents;
- E. Require any operator within the County, if it is determined that adequate records are not being maintained, to keep detailed records of the nature and type of hotel maintained; nature and type of service rendered; number of rooms available and occupied; daily leases, occupancy contracts or arrangements; rents received, charged, and accrued; the names and addresses of the occupants; whether or not any occupancy is claimed to be subject to the tax imposed by this article; and to furnish such information at the request of the County Administrator;

- F. Impose as a penalty upon any operator within the County any necessary costs of auditing services generated by discrepancies discovered upon audit, in the records of the operator; and
- G. Make, adopt, and amend such other rules and regulations appropriate to the carrying out of this article and the purposes thereof as may be approved by the Tompkins County Legislature.

## § 150-25. Administration of oaths and compelling testimony.

- A. The County Administrator or employees or agent(s) duly designated and authorized shall have the power to administer oaths and take affidavits in relation to any matter or proceeding in the exercise of their powers and duties under this article. The County Administrator shall have power to subpoena and require the attendance of witnesses and the production of books, papers, and documents to secure information pertinent to the performance of the duties hereunder in the enforcement of this article, and to examine them in relation thereto. The County Administrator shall also have the power to issue commissions for the examination of witnesses who are out of the state, unable to attend, or who are excused from attendance.
- B. A Supreme Court Justice, either in court or in chambers, shall have the power to summarily enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and documents called for by the subpoena of the County Administrator under this article.
- C. Any subpoenaed person who refuses to testify or produce books or records, or who testifies falsely in any material matter pending before the County Administrator under this article shall be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$1,000 or imprisonment for not more than one year, or both such fine and imprisonment.
- D. The officers who serve the summons or subpoena of the County Administrator and witnesses attending in response thereto shall be entitled to the same fees as are allowed to officers and witnesses in civil cases in courts of record, except as herein provided otherwise. Such officers shall be the County Sheriff and duly appointed deputies, or any officers or employees of the County Administrator's office designated to serve such process.

## § 150-26. Reference to tax.

Whenever reference is made to this tax in placards or advertisements or in any other publications, such reference shall be substantially in the following form: "Tax on occupancy of hotel rooms" or "occupancy tax," except that in any bill, receipt, statement, or other evidence or memorandum of occupancy or rent charge issued or employed by the operator, the word "tax" will suffice.

## § 150-27. Penalties and interest.

- A. Any person failing to file a return or to pay over any tax to the County Administrator within the time required by this article shall be subject to a penalty of 10% of the amount of tax due, plus interest at the rate of 1.5% of such tax for each month of delay, except the first month after such return was required to be filed or such tax became due. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this article.
- B. The following persons shall, in addition to the penalties herein or elsewhere prescribed, be guilty of a misdemeanor, punishment for which shall be a fine of not more than \$1,000 or imprisonment not exceeding one year, or both:
  - (1) Any operator, occupant, or any officer of a corporate operator or occupant failing to file a

return required by this article, or filing or causing to be filed, making or causing to be made, giving or causing to be given any return, certificate, affidavit, representation, information, testimony or statement authorized or required by this article, which is willfully false;

- (2) Any operator or officer of a corporate operator willfully failing to file a bond required to be filed pursuant to § **150-19** of this article, failing to file a registration certificate and such data in connection therewith as the County Administrator may require, failing to display or surrender the certificate of authority as required by this article, or assigning or transferring such certificate of authority;
  - (3) Any operator or officer of a corporate operator willfully failing to charge separately from the rent the tax herein imposed, willfully failing to state such tax separately on any evidence of occupancy and on any bill, statement or receipt of rent issued or employed by the operator, or willfully failing or refusing to collect such tax from the occupant;
  - (4) Any operator or officer of a corporate operator who refers or causes reference to be made to this tax in a form or manner other than that required by this article; and
  - (5) Any operator failing to keep records required by § **150-16** of this article.
- C. Any operator or officer of a corporate operator who fails to file a certificate of registration as provided under this article shall be subject to a penalty of \$50 for each month of delinquency in filing such certificate. Officers of a corporate operator shall be personally liable for the tax collected or required to be collected by such corporation under this article, and subject to the penalties hereinabove imposed.
- D. The certificate of the County Administrator to the effect that a tax has not been paid, that a return, bond, or registration certificate has not been filed, or that information has not been supplied pursuant to the provisions of this article, shall be presumptive evidence thereof.

## § 150-28. Returns to be secret.

[Amended 5-7-1991 by L.L. No. 1-1991]

Except in accordance with the proper judicial order, or as otherwise provided by law, it shall be unlawful for the County Administrator or any officer or employee of the County Administrator's Office to disclose in any manner the rents or other information relating to the business of a taxpayer contained in any return required under this article except to such persons and at such times as necessary to carry out this article. The officers charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the County Administrator in an action or proceeding under the provisions of this article, or on behalf of any party to any action or proceeding under the provisions of this article when the returns or facts shown thereby are directly involved in such action or proceeding. In any of these events, the Court may require the production of and may admit into evidence as much of said returns or the facts shown thereby as are pertinent to the action or proceeding, and no more. Nothing herein shall be construed to prohibit the delivery to the taxpayer or his/her duly authorized representative of a certified copy of any return filed in connection with his/her tax nor to prohibit the publication of statistics classified so as to prevent the identification of particular returns and the items thereof. In addition, nothing herein shall be construed to prohibit the inspection by the County Attorney or other legal representatives of the County of the return of the taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted for the collection of a tax or penalty. Returns shall be preserved for five years and thereafter until the County Administrator permits them to be destroyed.

## § 150-29. Notices and limitations of time.

- A. Any notice authorized or required under the provisions of this article may be given by mailing the same to the person for whom it is intended in a postpaid envelope addressed to such person at the address given in the last return filed by him pursuant to the provisions of this article, or in any application made by him. If no return has been filed nor application made, then notice may be given by mailing the same to such address as may be obtainable. Mailing of such notice shall be presumptive evidence of the receipt of same by the person to whom it is addressed. Any period of time which is determined according to the provisions of this article by the giving of notice shall commence to run from the date of mailing of such notice.
- B. The provisions of the Civil Practice Law and Rules or any other law relative to limitations of time for the enforcement of a civil remedy shall not apply to any action or proceeding taken by the County to levy, appraise, assess, determine, or enforce the collection of any tax or penalty provided by this article. However, except in the case of a willfully false or fraudulent return with the intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of filing of a return; provided, however, that where no return has been filed as provided by law, the tax may be assessed and collected at any time.
- C. Where a taxpayer has consented, in writing, before the expiration of the period prescribed herein for the assessment of an additional tax, that such period be extended, the amount of such additional tax due may be determined at any time within the extended period. The period so extended may be further extended by subsequent consents, in writing, made before the expiration of the extended period.