

# **Haywood County Tourism Development Authority**

## **Occupancy Tax Penalty and Waiver Policy**

### **Payment Due Dates and Returns**

Room occupancy tax is due and payable to the County finance officer 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 Haywood County TDA. The return shall state the total gross receipts derived in the preceding month from rentals upon which the tax is levied.

### **Non-compliance Penalties**

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.

### **Assessment of Penalties**

The assessment of penalties will be in accordance with G.S. 105-236, which outlines the procedures and penalties for failure to file a return and failure to pay taxes due. These penalties include:

1. Failure to File: A 5% penalty will be assessed if a return is not filed by the due date.
2. Failure to Pay: A 10% penalty, not less than \$5.00, will be assessed if the tax is not paid by the due date.
3. Additional penalty: An additional 5% penalty, not to exceed 25%, shall be assessed in each additional month a return is not filed.
4. Any form of non-compliance: Lodging properties that are in default shall not receive any of the benefits a business in good standing receives from the Haywood County TDA until such time as they are no longer in default.

These penalties are designed to ensure compliance with the law and encourage timely payment and filing of the room occupancy tax returns. If a person, firm, corporation, or association is liable for penalties, they may request a waiver in accordance with the Occupancy Tax Penalty Waiver Policy as described below.

## **Waiver of Occupancy Tax Penalty Policy**

### **Policy Statement**

This policy outlines the authority, procedure, and criteria for waiving occupancy tax penalties by the Haywood County Tourism Development Authority (HCTDA). The objective is to ensure fairness and consistency in the application of this authority.

### **Authority**

Under North Carolina state law, the Board of the HCTDA possesses 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.

### **Scope**

This policy applies to all lodging providers, persons, firms, corporations, or associations within the jurisdiction of Haywood County, who are obligated to remit room occupancy tax under applicable laws.

### **Procedure for Requesting Waiver**

A request for a waiver of penalties should be submitted in writing to the HCTDA Executive Director, specifying the reasons for the delay in payment and any supporting documentation. Requests must be submitted within 30 days of the date when the penalty was applied, or will be ineligible for waiver consideration. The HCTDA will review the request and respond in writing within 60 days of receiving the request.

### **Criteria for Waiver**

The HCTDA may consider waiving the penalties in the following situations:

1. Automatic Reasons Waiver
2. Good Compliance Waiver
3. Special Circumstances

#### **1. Automatic Reasons Waiver Criteria**

These reasons are considered automatic because if one of them applies, all penalties are waived in their entirety regardless of the taxpayer's compliance record or number of penalties that have been waived for that taxpayer in the past.

Reason	Period Subject to Waiver
Death of the taxpayer, the taxpayer's immediate family member, or the taxpayer's tax preparer	Returns and payments due within 3 months following the date of death
Serious, sudden illness of the taxpayer, the taxpayer's immediate family member, or the taxpayer's tax preparer	Returns and payments due within three months following the date the illness began
Natural disaster, such as a tornado or hurricane, or an accident such as a fire, that destroyed property, records, or both	For disasters addressed in a memo from the Secretary or the Governor, the period set in the memo. For other disasters and for accidents, returns and payments due within three months from the date of the disaster or accident.

## 2. Good Compliance Reason

The good compliance reason allows every taxpayer one penalty waiver every three years. In order to qualify for a good compliance waiver, the taxpayer must meet the following conditions:

- a) *No prior waivers*: the taxpayer has not received a waiver based on good compliance during the "look-back" period. The "look-back" period is a three-year period that consists of the taxpayer's most recent waiver history. It ends on the date a request for a penalty waiver is being considered.
- b) *No Tax Filing Due*: The taxpayer must have filed all occupancy tax reports due. This condition is not limited to the three year "look-back" period.
- c) *No other outstanding liabilities*: The taxpayer must have paid any tax, penalty that is not waivable, and interest due for the period for which the penalty waiver is being requested.

## 3. Special Circumstances

The category of special circumstances applies in limited circumstances to all penalties and consists of all other reasons to waive penalties. It applies to penalties that are subject to the general waiver criteria but do not meet those criteria and to penalties that are not subject to the good compliance reason. Waiver of a penalty based on the category of special circumstances is the exception rather than the rule.

## Review and Decision

Waiver requests that qualify under the automatic reasons criteria shall be processed by HCTDA staff, with written notification being sent to the County Finance Officer, County Assistant Finance Officer, and the applicant.

Waiver requests that qualify under the Good Compliance reason and are under \$1,000 shall be reviewed and processed by HCTDA staff. For amounts over \$1,000, requests shall be reviewed by the HCTDA Finance Committee and the HCTDA Board of Directors in closed session per G.S. 132-1, and their

recommendation sent to the Haywood County Board of County Commissioners for final decision. The HCTDA staff will notify the TDA Board of any approved Automatic Reasons and Good Compliance waivers during the following Board meeting.

Waiver requests that fall under special circumstances will be evaluated on its individual merits. The decision to waive the penalty will be at the sole discretion of the HCTDA Board if under \$1,000 or County Commissioners if over \$1,000, following a thorough review of the circumstances.

In all cases, the applicant will be informed of the decision in writing.

This policy is meant to promote fairness and leniency in cases where the delay in payment of the room occupancy tax was due to circumstances beyond the control of the lodging provider. At the same time, it emphasizes the importance of meeting tax obligations in a timely manner for the benefit of the Haywood County community.

***Adopted this 23<sup>rd</sup> day of August, 2023***