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## Court: Websites stiffed Atlanta on hotel taxes

By [Bill Rankin](#) and [Leon Stafford](#)  
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Online travel companies that book hotel rooms in Atlanta must pay more in occupancy taxes, the Georgia Supreme Court ruled Monday, in a decision expected to generate millions of dollars in revenue for the city.

But the court stopped short of handing the city a complete victory, also ruling that the city cannot recover back taxes the companies have failed to pay.

Monday's decision involves only the [city of Atlanta](#), but Fulton, Gwinnett, Cobb, DeKalb and Clayton counties are part of a federal class action suit over the same issue, and the online travel industry faces similar suits nationwide.

Cities and counties contend the online travel companies illegally pocket hotel occupancy tax revenue by paying the tax only on the wholesale rate they pay to reserve blocks of rooms, rather than on the rate they charge customers.

Atlanta's deputy city attorney, Eric Richardson, said the city is pleased the court agreed that online companies must now pay "the full amount of owed occupancy taxes going forward." The city also will continue to pursue past unpaid taxes, he said.

A spokesman for the online travel industry expressed disappointment and suggested online companies might reduce the amount of advertising dollars they spend to promote Atlanta as a travel destination.

Justice Robert Benham, writing for a unanimous court in Monday's ruling, said the retail rate charged the customer is what should be taxed under the city's ordinance. For example, he noted, if an online travel company pays \$60 to a hotel for the right to market a room, then charges consumers \$100 for the room, the full \$100 room rate is subject to the tax, not just the wholesale rate. In Benham's example that would mean an additional \$2.80 for the city.

The city in 2006 sued 17 online companies, including Hotels.com, Expedia, Travelocity and Orbitz.

Atlanta's occupancy tax is 7 percent, and in past years the city has collected more than \$40 million a year. The revenue goes to the [city of Atlanta](#), the Atlanta Convention and Visitors Bureau and the Georgia World Congress Center, and is also used to help pay down debt on the Georgia Dome, said Gregory Pierce, ACVB executive vice president.

"It's not a lot of money, but it adds to the funds available for marketing the city," said ACVB board member Ken Bernhardt. "Every dollar that goes to promoting Atlanta is a dollar that benefits the economy multiple times over."

Andrew Weinstein, a spokesman for the Interactive Travel Services Association, said the online companies are "confounded and disappointed" with the court's decision, though pleased that it blocked collection of back taxes.

"This is judicial activism at its worst, and we hope the legislature will review the policy implications of such a court-created tax," he said.

Weinstein said he could not predict the ruling's effect on hotel rates and bookings. He noted that the association's members spend hundreds of millions of dollars each year promoting travel destinations, and they may begin deciding where to spend that money based on factors including the legal and tax climates in certain areas.

Bob Lamar, who represents 259 Georgia cities and counties in the federal class-action suit, filed in Rome, said the ruling should "reinforce what we've always claimed -- that the online travel companies owe those taxes." In March, U.S. District Judge Harold Murphy granted class-action status to the lawsuit.