

D.C. will sue online travel companies

Washington Business Journal - by Michael Neibauer

Tuesday, March 22, 2011



- Michael Neibauer
- Reporter
- Email: mneibauer@bizjournals.com

The District will file a lawsuit Tuesday against four major online booking companies that the city claims have failed to pay millions of dollars in hotel taxes in the last decade-plus.

The lawsuit targets **Expedia Inc.**, **Orbitz Worldwide**, Priceline.com Inc., and Travelocity.com Inc. The District accuses the booking companies of remitting the city's 14.5 percent hotel occupancy tax on the discounted room price the booking agent paid, not the full retail price the traveler paid.

We've [written extensively](#) about this issue, because, it seems, everybody is suing the online booking companies at this point.

Here's the issue: Online travel agents negotiate wholesale rates for hotel rooms, and then re-markets those rooms to the public with a retail markup. Say a person books a Marriott room through Orbitz for \$225, but Orbitz paid Marriott \$200 for the room. The District collects the 14.5 percent tax on the \$200 only, while Orbitz retains the \$25 as a "service fee." And D.C. is out more than \$3.50 in tax revenue for that one room.

Acting D.C. Attorney General **Irvin Nathan** said Tuesday the booking companies are shorting the District between \$4 million and \$10 million a year. The lawsuit, he said, will seek to recover taxes, penalties and interest on the uncollected taxes dating back to 1998. The total amount will depend, he said, "on whether or not this is negligence or fraud," but it will certainly total "several tens of millions of dollars."

The District will move "swiftly" on the lawsuit, Nathan said, but he offered no timeline.

Andrew Weinstein, spokesman for the **Interactive Travel Services Association**, the industry representative for the online travel companies, was not immediately available for comment.

The D.C. Council passed legislation in December directing online booking companies to remit the District's hotel tax on the full, retail price of every room they reserve on behalf of travelers. Also in December, Montgomery County [accused](#) 18 companies in U.S. District Court of "tax evasion" and "unjust enrichment" over the same issue. Similar lawsuits are in play in courts from Georgia to Texas to California.

Prior to the D.C. Council vote, ITSA launched an [ad campaign](#) that claimed the bill would be a "jobs destroyer" as it drives up room costs and drives tourists to Maryland and Virginia hotels.

D.C. Mayor **Vincent Gray** discounted those warnings.

"I don't believe it will have a negative impact on tourism," he said.

The Hotel Association of Washington, D.C. supports the lawsuit to recoup back taxes, just as it backed the council's effort to collect the tax revenue going forward, said Solomon Keene Jr., the association's executive director. He said the association has been "working with the [Office of the Attorney General] on this particular issue."

"We believe this money is due to the District and we support the District going after this money," Keene said.