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Florida counties battle online companies over bed taxes

The online tourism-tax debate reaches Broward, as counties battle online booking companies over the potential \$200 million.

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TALLAHASSEE -- Counties and cities all over Florida are waging a war against online hotel-booking companies like Priceline and Expedia, alleging the companies are bilking them out of millions in tax dollars.

In January, Broward County became the latest Florida government embroiled in a legal battle over whether online hotel-booking companies owe tourism taxes. As much as \$200 million could be at stake statewide, according to Broward's attorney in the case.

The companies say they don't owe a cent and that state officials are trying to impose a new tax.

Pinellas County Tax Collector Diane Nelson persuaded Tampa-area lawmakers to file legislation that would resolve the argument by forcing online booking companies to come up with tax dollars. Last week, Broward County commissioners said that passing such a law is among their top priorities.

Right now, online travel companies buy up blocks of hotel rooms and the hotel owners remit sales and local tourism taxes on the wholesale price, say \$50 a room. Then the online companies mark up the rooms, to say \$100 a room, and keep the difference.

The companies and local governments are fighting about whether the markup should be subject to the bed tax that funds tourism initiatives. Local government officials contend the tax should be levied on the consumers who occupy the rooms and on the prices consumers pay.

"It should be paid by the person who is buying the right to occupy the room," said Orange County Comptroller Martha Haynie. "If the name on that room has changed hands, I don't care. I want the person who occupied the room to remit the proper amount of taxes."

'MONEY GRAB'

Local governments are going on a "money grab," trying to tax services online companies provide, said Expedia lobbyist Jennifer Green. Green and others in her industry contend that current law taxes the price paid to occupy the room, which they said is paid at the wholesale rate, not the services associated with it.

And online travel companies have a powerful ally who says this should be kept tax-free. Sen. Mike Haridopolos, R-Indialantic, filed legislation last year to prevent the markup from being taxed, although he hasn't yet filed similar legislation this year.

"We need to bring tourists into Florida and if it's more expensive to vacation here, these companies are going to direct their services someplace else," said Haridopolos, whom many expect to be the next Senate president.

MIAMI-DADE

Jacksonville and Miami-Dade and Orange counties have been waging legal battles with online travel companies for several years.

Miami-Dade began trying to collect tax revenue from online travel websites in 2006, when the county commission voted to sue the companies. Miami-Dade's tax collector's office then sent bills to more than 15 companies the following year, after a judge said the county needed to exhaust its normal collection procedures before taking the fight to court. That process still continues, and Monroe County has joined the effort, as well.

BROWARD

In Broward's case, the county last year sought \$4.9 million in taxes and penalties from seven online travel companies for rooms booked between the beginning of 2002 and August 2007. The companies (Orbitz, Internetwork Publishing, Priceline, Travel Web, Hotwire, Hotels.com and Expedia) each filed a separate lawsuit against Broward County in Leon County Circuit Court earlier this month, saying they don't owe the tourism development tax.

Steven Wolens, an attorney representing Broward, said local governments weren't aware of room-price gap until recently -- one of the earliest cases was filed in Los Angeles in 2004.

`CHEATING'

In Florida, counties haven't had any successes.

"The money is owed to the county," Wolens said. ``These folks have been cheating the county and the state for at least a decade."

Wolens also has consulted with other Florida governments, including Miami-Dade County, which also wants to collect from the online companies. And he said he's aware of similar claims filed in 18 states.

It's difficult to determine exactly how many hotel rooms are booked using online travel companies, said Nicki Grossman, president of the Greater Fort Lauderdale Convention & Visitors Bureau, which administers the county's tourist development tax money.

But based on numbers provided by local hotels, she estimates that in Broward about 150,000 rooms out of the roughly 3 million booked each year are reserved online.

TAX-MONEY USES

In Broward, the tourist development tax brought in about \$42.8 million during the fiscal year that ended in September 2008, according to the tourist development tax section of the county's revenue-collection division.

Along with paying for the operation of the Convention & Visitors Bureau, the money is used to buy about \$5.5 million a year in advertising and other promotions, including a wintertime billboard in Times Square in New York City displaying the temperature in Fort Lauderdale.

OTHER USES

Broward's tourism development tax money also is used to operate tourism offices in Europe and South America, to operate and market the Fort Lauderdale Convention Center, and to make debt payments for the Florida Panthers' hockey arena in Sunrise.

Grossman said the money has become more important as falling home values have caused property-tax collections to drop.

"As available property-tax collections diminish, bed-tax money becomes something local governments all over the state begin to covet," she said.