

Intermediaries sue New York City over new hotel tax

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Online travel companies, ASTA and the U.S. Tour Operators Association filed a lawsuit Monday against New York City, challenging the legality and constitutionality of the city's recently amended hotel occupancy tax.

The tax requires resellers of New York hotel rooms to remit a tax based on the full retail rate paid by the customer as a "condition of occupancy," including some service fees and charges. The amended occupancy tax went into effect Sept. 1.

The new tax "illegally attempts to extend the New York City hotel room occupancy tax to amounts charged by third-party travel intermediaries for their services," the lawsuit claims.

The case brought together the interests of online travel companies, travel agents and tour operators, all of whom have expressed outrage with New York's newly amended hotel tax.

The lawsuit was filed in New York State Supreme Court by several online travel companies -- including Expedia, Hotels.com, Hotwire, Orbitz and Travelocity -- as well as ASTA and the USTOA. The city and its finance department were named as defendants.

The plaintiffs claim that the amended tax is unconstitutional under New York state law.

Third-party travel intermediaries, including travel agents, tour operators and OTAs, "do not provide or grant hotel occupancy. They do not charge rent for their services. They do not typically buy, take title to, or obtain any possessory interest in any New York City hotel rooms," the suit claims.

The complaint goes on to state that "the amounts the plaintiffs earn for facilitating the booking of hotel rooms are not a 'condition of occupancy.'

"Indeed, travelers could book the exact same rooms directly with hotels without the use of an intermediary. The compensation earned by plaintiffs for serving as intermediaries who facilitate the booking of hotel rooms in New York City is therefore not properly subject to the occupancy tax."