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Online travel sites shortchanging Florida

By Carol Dover, Special to the Times

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Earlier this year, the Florida Restaurant & Lodging Association remained neutral in a heated battle that directly affected Florida hotels and our state's tourism industry. The fight was over a measure in Tallahassee that would have created a special tax advantage for out-of-state online travel companies such as Expedia, Orbitz and Travelocity. The bill, which passed the House but died in the Senate shortly before adjournment, would have deprived Florida of more than \$20 million in tax revenue annually, according to the Florida Association of Counties.

Recently, however, our association's board made an important decision to oppose any similar effort to create such a special tax advantage in the future. Our reasons for doing so are simple: Florida law should not discriminate against Florida hotels in order to give well-heeled on-line travel companies a tax advantage.

Further, during this time of economic uncertainty, Florida cannot afford to give these on-line companies a special law that allows them to retain revenue that, as recent court rulings suggest, rightfully belongs to our communities.

Enough is enough.

The worst recession since the 1930s, and one of the slowest recoveries, has posed grave challenges to Florida's economy. Across the state, local governments continue to face serious budget shortfalls that have forced them to

raise fees or slash spending on schools, police and other vital services that sustain our communities and promote Florida as a tourist destination.

Not surprisingly, in the midst of this historic crisis, we have experienced one of the steepest declines in state tax receipts ever. What is surprising is this: In addition to the serious economic downturn, there's another reason our state and local governments have been falling short: An entire U.S. industry has been playing by its own rules when it comes to remitting taxes to state and local governments.

The culprit: online travel companies.

Even though customers pay the same or more if they book rooms through those online companies (as they would if booked through a hotel directly), courts have found that the online companies have been paying to state and local governments only part of the taxes they collect from consumers. Those companies charge their customers "taxes and fees" based on the advertised retail price of a hotel room on their websites. However, the companies then choose to remit taxes based on their wholesale cost (the amount they remit to the hotel for the room).

The travel companies then keep the difference.

Unfortunately, we recently learned that online travel companies have been knowingly trying to avoid paying their fair share of taxes.

A Georgia Superior Court judge recently released a special master's report, held under seal for almost two years, which found that online travel companies masterminded a strategy to withhold documents in a lawsuit seeking unpaid hotel occupancy taxes. The report said documents were withheld "in order to thwart legitimate discovery," as part of "a conscious and deliberate effort to avoid the payment of (Expedia's) full measure of occupancy taxes, in violation of state and local law."

According to media reports, attorneys for the suing municipalities believe the internal Expedia documents amount to a "smoking gun," essentially proving what they have argued for years: that the companies knew all along they owed the relevant hotel occupancy or sales taxes but instead of paying devised an aggressive and organized lobbying and litigation strategy to thwart any efforts to collect them.

Why? Because to do so would have cost the companies a significant portion of their profits every year.

With so much at stake, the online travel companies will likely try again to pass their bill during the 2012 legislative session. The Florida Restaurant & Lodging Association will stand firmly against any such effort. Florida hotels should not be discriminated against to benefit online travel companies. At a minimum, Florida hotels should have the same level playing field as any online travel company.

We need to make sure our state remains an attractive destination, visited by millions of people annually from around the world. That means everyone, including online travel companies, should follow the law and pay their fair share.

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