

Friday, July 31, 2009

Palm Beach County tax collector sues online travel companies

South Florida Business Journal - by [Susan R. Miller](#)

Palm Beach County's tax collector has filed suit against a slew of online travel Web sites, alleging that the companies are not turning over tourist development taxes owed.

The suit, filed Thursday in Palm Beach County Circuit Court, states that the defendants, which include **Hotels.com**, Orbitz.com, **Priceline.com** and Travelocity.com., have "enriched themselves at the expense of Palm Beach County and, ultimately, ... taxpayers."

The online booking companies pay for hotel rooms at a negotiated rate before selling them at a higher price. The companies pay the tax on the amount they paid for the room. The suit says that, under Florida law, the taxes must be paid on "the total consideration" and must include any charge or surcharge to guests.

The suit claims that, rather than paying taxes on the total consideration, they are paying taxes, if at all, on the wholesale price they negotiate with the hotels for the rooms.

"Defendants are charging and collecting taxes from customers on the retail consideration paid by the customer under the guise of a 'taxes and services' fee, but failing to remit these taxes ... thereby unlawfully pocketing monies due to (the county)," the suit states.

Several other cities in California, Texas and Georgia have filed similar lawsuits, which are pending.

Andrew Weinstein, a spokesman for the **Interactive Travel Services Association**, whose membership includes the defendants, noted that an appellate court and four federal courts already have thrown out similar cases, and that they were confident they would win, given the companies' track record in court.

"Online travel companies do not own or operate hotels, so it makes no sense to try to impose hotel taxes on them," Weinstein said. "We expect the court will agree with other rulings around the country that this claim is totally without merit."

In January, an appellate court in North Carolina dismissed a similar suit, concluding that, because the online companies had no role in the day-to-day operation or management of the hotels, they were not subject to the tax.