

Protect State and Local Taxing Authority Over Online Travel Companies

Issue: Legislative initiatives that would preempt state and local taxing authority over online travel companies.

NACo policy: NACo opposes legislative initiatives that would preempt state and local taxing authority.

Action needed: County officials should urge their Members of Congress to strongly oppose any legislative initiatives, such as the Internet Travel Tax Fairness Act, that would give preferential tax treatment to online travel companies, such as Expedia and Travelocity, at the expense of local government budgets.

Background: Online travel companies are under fire for collecting hotel taxes from customers based on the higher retail rate for a room and then paying the local government a hotel tax based on a cheaper, wholesale room rate. For example, an online travel company books a room at the wholesale rate of \$50. The company then sells that room for the retail rate of \$100, plus any applicable state and local hotel taxes. But instead of submitting the full amount of hotel taxes collected from the customer, the online travel company only submits the amount of tax calculated on the cheaper, wholesale price of the room. Assuming a hotel tax rate of 10%, the online travel company would collect \$10 in taxes, but remit to the taxing authority only \$5, pocketing the difference.

This practice is currently the subject of numerous lawsuits filed against online travel companies by localities across the nation. As a result, online travel companies are attempting to introduce and enact legislation that would prevent state and local governments from requiring online travel companies to collect hotel taxes.

State and local governments use hotel taxes in various ways. In some localities, the revenues are funneled into the general fund to help provide badly needed community services to our residents. Some localities use the revenues to promote tourism. And some municipalities use these funds to pay for voter-approved convention centers, sports arenas, and other public buildings. In fact, the impact such preemption would have on existing bond issues that rely on these tax revenues for repayment would be devastating to state and local budgets. It would be unconscionable during this current financial crisis for Congress to even consider the possibility of granting the online travel companies such preferential tax treatment.

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