

Court: Online travel agencies not liable for local tax collections

By Danny King, Travel Weekly

Online travel agencies won two more legal victories in California, in Anaheim and Santa Monica, over the issue of who is responsible for millions of dollars in annual hotel taxes when rooms are booked through intermediaries.

The California Second District Court of Appeals affirmed judgments by the Superior Court of Los Angeles County, which concluded that OTAs were not liable for local lodging taxes on their hotel reservation services.

OTAs recently gained a similar legal victory in Hawaii, according to Travel Tech (formerly the Interactive Travel Services Association), the Washington-based trade group that represents the OTAs.

The most recent victories are notable because Anaheim is home to Disneyland, while the seaside city of Santa Monica attracts more than 6.7 million visitors a year from outside of Los Angeles County.

Other municipalities that have taken on the OTAs in court and lost include Houston; Philadelphia; and Branson, Mo. Notably, a 2010 ruling that awarded the city of San Diego \$21.2 million was overturned last September.

The issue of occupancy-tax responsibility is a big one in the U.S. because OTAs will book about \$16.5 billion of the estimated \$114 billion in total U.S. hotel and lodging revenue this year, or more than 14 percent of hotel booking revenue, according to research firm PhoCusWright.

OTAs typically mark up rooms by about 25 percent. Expedia, Priceline, Travelocity and Orbitz collectively account for more than 90 percent of U.S. travel sold through OTAs.

“In the span of less than one month, OTCs have recorded impressive victories in three of the largest travel and tourism markets in the nation,” said Travel Tech Chairman Simon Gros, in a statement. “It is a shame that communities continue to waste taxpayer dollars on such futile litigation.”

Washington is the most notable exception to this trend, as the nation’s capital in September won its ruling after Judge Craig Iscoe of the District of Columbia Superior Court wrote that the OTAs are responsible for transient taxes on the gross amount collected for hotel rooms from customers, not just on the net amount paid by OTAs to hotels.

Other decisions that have gone the municipalities’ way involved San Antonio and Florida’s Orange County, which the Walt Disney World Resort.

Orange County last year reached a settlement with Expedia, in which Expedia paid the county an undisclosed amount to resolve a 2006 case.

Meanwhile, in a July 2011 ruling involving San Antonio and 172 other Texas cities, including Dallas and Austin, the OTAs lost a \$20.6 million decision.