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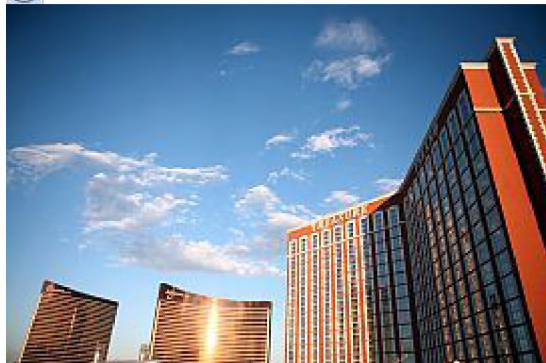
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## Hotels, online sites fight over travel tax burden

By Reid Wilson, Published: October 5 at 4:23 pm [E-mail the writer](#)

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The Encore, left, Wynn and Treasure Island hotel-casinos in Las Vegas. (Ronda Churchill/Bloomberg News) When you log on to Orbitz to find that perfect room for your next vacation, you may be thinking about the pool, or the view, or the chance to get away from it all. But the travel site you use and the hotel where you stay are thinking about something else: Who's responsible for your taxes?

Online travel providers and the hotel industry will clash next year over which side is responsible for forwarding taxes to state and local governments, setting up high-stakes battles in state capitals that are increasingly facing the question of how to tax Internet sales. In this case, the consumer's bottom line may not change, but shifting the tax burden is a threat to travel providers still operating on narrow margins after a recession severely dented their balance sheets.

The rate an online shopper sees now reflects a balance between hotels and the travel providers who sell their rooms. The online sites contract with hotels to sell rooms at below-market rates, then sell those rooms to the consumer at market rates; the difference is where Orbitz and Travelocity and Expedia make their profits. And even if the hotels are only receiving 80 percent of their regular rate, it's better for them than to leave the rooms unoccupied.

What happens next is the nexus of the debate: When you pay the online provider the cost of the room plus the tax, they forward the contracted amount to the hotel. The hotel then forwards the taxes on the contracted rate on to state and local governments. But there's a gap between the taxes the consumer pays and the taxes for which the hotel is responsible — and the hotel industry wants to close that gap.

Consider a typical room available for \$100 online. The consumer pays \$100, and a hypothetical 10 percent tax rate, or \$10, on that room. The online travel site has contracted with the hotel to pay \$80 for the room. They forward the \$80, plus the 10 percent tax, \$8, to the hotel, which then forwards the \$8 to the local taxing authority. The travel company keeps the \$20 difference as their profit, along with the extra \$2 that the consumer paid; because the travel site bought the room for \$80, they get to keep the extra two bucks. At a meeting this year in Atlanta, the National Conference of State Legislators passed a resolution sponsored by a South Dakota Republican urging states to change that process. The resolution, backed by the hotel industry, recommends that states require online travel companies to remit the taxes paid by the consumer based on the retail price, rather than the wholesale price. Making the change, backers of the proposal say, would boost state and local tax revenue.

"Tax policy has not kept up with changes in technology, giving rise to significant ambiguity in defining the tax base, or the amount subject to tax," Utah state Sen. Curt Bramble (R) said in an e-mail. "When changes in technology render current tax policy obsolete, when special interest, cottage industries take extraordinary

advantage or exploit tax ambiguities and loopholes, there is a strong impetus to discuss and address the issue. This is clearly the case with online travel services.”

But travel industry advocates say the change would hurt travel agents that operate offline, too, and that there’s no reason to change a system that has operated without change for years.

“The majority of the states are seeing that the business model, as it is, works just fine,” said Robin Reck, communications director for the Travel Technology Association. “For the online travel companies, it’s a lot of money, but the people it also effects are the local travel agents.”

So far, the online travel companies are winning the legislative fight. Sixteen state legislatures took up similar bills proposing to change the policy in 2013, but it only passed in one state, Oregon.

Both sides are fighting over the taxes in courts from Florida to Chicago. A federal court in Texas and state courts in South Carolina and Georgia have all ruled that online travel sites must pay taxes on the full amount under existing statute, while the travel sites won a case in Los Angeles in 2004.

But the fact that a resolution advocating the changes passed the NCSL is an indication that hotel and lodging interests will push the measure in legislatures again this year. For a resolution to pass the NCSL, a bipartisan group of state legislators whose executive committee is meeting this weekend in Portland, it must receive three-quarters of the vote, a high standard aimed at ensuring bipartisanship.

“The NCSL Executive Committee Task Force on State and Local Taxation has spent a considerable amount of time and effort addressing taxation of online travel services over the last several years,” Bramble said.

Reck, who represents the online travel agencies, maintains that the proposal would help the hotel industry at the expense of the travel providers who help put heads in beds.

“We just make that transaction happen,” Reck said. Changing the fee structure, she added, “is sort of a strange way to go about promoting tourism.”

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