



March 19, 2010

Response to the Open Letter from the Interactive Travel Services Association:

We would like to take this opportunity to briefly respond to your Open Letter dated March 12, 2010, and once again provide our views on your ongoing legislative effort to preempt state and local governments' authority to collect hotel occupancy taxes on rooms that are booked through online travel companies (OTCs). Your letter has not changed these views.

We recognize and appreciate our business relationship with OTCs, and find it troubling that you are aggressively pressing for federal legislation that, if enacted, inevitably would result in higher taxes for our hotel properties and our guests. We also note that your proposal is vehemently opposed by state and local governments with whom we have had equally important relationships for decades—long before OTCs even existed. As a result, we cannot support efforts to enact federal legislation that would benefit your members at the expense of our members, their guests, and our state and local partners.

The so-called “impassable web” of tax jurisdictions and associated “audit procedures and paperwork obligations” that you repeatedly emphasize is nothing new to our industry. Hotel companies of all sizes deal with a wide range of tax and other state and local laws on a daily basis, and this should hardly serve as the basis for federal tax preemption such as the one your members are aggressively promoting.

You refer to your legislation as a “national standard,” but then propose moving the issue of occupancy tax collection responsibilities from the local level to the “more logical” state level, yet the authority to collect occupancy taxes is generally granted to cities and counties, and is not handled at the state level. You also claim that your proposed legislation would “protect every dollar of existing occupancy tax revenue,” but the legislation specifically exempts a portion of occupancy taxes that travel agents currently remit and is not even in dispute.

Let's be clear: The “national standard” your members are really seeking is nothing more than a special interest, federally-imposed exemption from having to remit state and local occupancy taxes. There is not a business in America that would not welcome their own version of your “national standard” legislation, and if your proposed legislation were to pass, retail businesses of every stripe will be lining up before Congress for the same state and local tax windfall. Just imagine if every retail business claimed that sales taxes should be paid on the wholesale price of the goods or services it is selling, not the retail

rate the customer pays. This is the essence of the argument your members have been making, and your legislation would codify this very practice.

So who would really lose if your legislation were to pass? Cities and counties that are facing an unprecedented struggle to balance their budgets and preserve their dwindling tax base in order to pay for public services such as public schools, fire and police departments, clean water, good roads, and the like. And hotels of all sizes also would lose, as the free pass your members would receive from occupancy taxes would lead many state and local governments to raise occupancy and other taxes and fees to make up for the lost revenue.

In your letter, you also refer to the “litigation overhang” that your legislation would eliminate. While we all would relish the idea that we could be insulated from litigation with the stroke of the President’s pen, in this case, the litigation overhang is one of your members’ own making.

At the end of the day, this issue is about nothing more than your members’ desire to add millions of dollars to their bottom line by retaining occupancy taxes that state and local governments believe belong to them. We object to your proposed legislation because we believe strongly that Congress should not be playing a role in resolving the OTCs’ dispute with local governments. It is bad precedent, and the consequences would be harmful to the hospitality industry.

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