

# ONLINE TRAVEL COMPANIES AND THE TOURIST DEVELOPMENT TAX:

Should Florida Grant Them a Tax Exemption?



# Online Travel Companies and the Tourist Development Tax



- **Online travel companies (OTC) purchase inventory from hotels and resell that inventory to their customers from the web. The price of the room is marked up above the amount the OTC paid the hotel. The OTC is not remitting the tax on this markup of the room price although it is collecting it from the customer.**
- **The OTC is the merchant of record. The total amount paid to the OTC for the occupancy by the customer is the amount that should be taxed.**
- **The online travel companies are seeking legislative relief to exempt them from remitting tax on the retail price charged to the customer. They only want to remit the tax on the wholesale price they paid to the hotel.**

## Summary of Existing Tourist Development Statute

Section 125.0104(3)(a)1.: "[E]very person who rents, leases, or lets for consideration any living quarters or accommodations in any hotel . . . is exercising a privilege which is subject to taxation[.]“

Section 125.0104(3)(a)2.a.: "**Tax shall be due on the consideration paid for occupancy** in the county[.]“

Section 125.0104(3)(f): "The tourist development **tax shall be charged by the person receiving the consideration** for the lease or rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.“

Section 125.0104(3)(g): "**The person receiving the consideration for such rental or lease shall receive, account for, and remit the tax** to the Department of Revenue at the time and in the manner provided for persons who collect and remit taxes under s. 212.03.”

# Tax Exemption Impacts

- The taxes not being paid by the Online Travel Companies affect three separate revenue streams to local communities:
- Tourist Development Tax (“TDT”) Revenues
- Local Option Sales Tax Revenues
- State Revenue Sharing



To understand the magnitude of the dollar flows to each community in the region, the following data is presented from State reports.

This data does not include the dollar loss from taxes not remitted by the online travel companies.

## TDT Rates & Revenue with Local Option Sales Tax & Revenue Sharing

County	2010 TDT Rate	2009-10 Total TDT Revenue	Local Option Sales Tax	2009-10 Total Local Option Sales Revenue	Revenue Sharing FY 2011-12**
Baker	2	18,069	1	1,615,416	419,913
Clay	3	321,252	1	17,069,640	3,778,105
Duval	6	6,858,413	1	125,842,228	22,395,016
Flagler	4*	543,831	1	7,587,240	1,004,459
Nassau	4*	1,452,753	1	7,294,742	1,390,744
Putnam	4	141,745	1	5,237,123	1,319,002
St. Johns	4*	3,265,556	0	0	4,028,520

\* Increased from 3% in 2010

\*\* Information for Revenue Sharing is based on the official estimate provided by the Legislature for county budgeting. Data is by State Fiscal Year, July 1, 2011 to June 30, 2012.

## These are Out of State Companies



- Priceline – Connecticut with wholly-owned subsidiary in Texas
- Expedia – Washington state with subsidiaries in Texas and California
- Travelocity – Texas with a subsidiary headquartered in New York
- Orbitz – Illinois with a subsidiary in Hawaii

# Counties that have Settled their TDC Claims through 2012

Bradford

Citrus

Clay

Collier

Columbia

**Duval**

Franklin

Gadsden

Glades

Hamilton

Hendry

Hernando

Highlands

Holmes

Indian River

Jackson

Jefferson

Lake

Levy

Madison

Martin

Miami-Dade

Monroe

Okeechobee

**Putnam**

St. Lucie

Santa Rosa

Sarasota

Sumter

Suwannee

Taylor

# Counties with Pending Court Claims to Collect the TDC Tax

Escambia

Okaloosa

Walton

Wakulla

Leon

**Nassau**

**Duval (2% convention center tax)**

**St. Johns**

**Flagler**

Alachua

Orange

Seminole

Brevard

Pasco

Hillsborough

Polk

Pinellas

Manatee

Lee

Charlotte

Broward



# What the Legislature had to do to balance the State Budget



- Swept \$2.8 billion from 95 dedicated pots of money over the last four years
- For the 2011 budget, \$524 million was taken from 31 trust funds, including:
  - permit fees from tobacco and alcohol retailers and distributors
  - \$150 million from the State Transportation Trust Fund
  - Doc stamps trust fund revenue for affordable housing (since 2008 a total of \$572 million swept out of this trust fund with a total of \$189 million taken this year from the trust funds)
- In this climate of Florida having to violate trust funds and pursue other extraordinary fiscal measures, why should a tax exemption to out of state companies be enacted?

## **House Floor Vote on Tax Exemption for Online Travel Companies**

<b>Representative</b>	<b>HB 1241 (2010)</b>	<b>HB 493 (2011)</b>
Adkins (Baker/Nassau)	Yes	Yes
Costello (Flagler)	n/a	No
Davis (Clay/Duval)	n/a	Yes
Fullwood (Duval)	n/a	No
Jones (Duval)	Yes	No
McBurney (Duval)	Yes	Yes
Proctor (Clay/Flagler/St. Johns)	No	No
Ray (Duval)	Yes	Yes
Renuart (Duval/St. Johns)	Yes	Yes
Van Zant (Putnam/Clay)	No	Yes
Weinstein (Clay/Duval/St. Johns)	Yes	Yes

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The Florida Senate had no floor votes on the proposed tax exemption in either the 2010 or 2011 legislative sessions.

# Questions:



**Northeast Florida  
Regional Council**

