

# Star Advertiser

Tuesday, March 19, 2013

## Online travel companies ordered to pay \$70 million in penalties

By Star-Advertiser staff



AP

In this Tuesday, Jan. 15, 2013, photo, Expedia analytics team workers Mike Brown, left, Saurin Pandya and Prashanti Tata chat in an alcove set up for employees in Bellevue, Wash. The online travel agency's fourth-quarter profit fell 90 percent because of money it set aside to appeal a tax dispute in Hawaii. (AP Photo/Elaine Thompson)

Popular travel sites are being told to pay Hawaii a \$70 million penalty for skirting state general excise taxes over the past 10 years.

A tax appeal court has ruled that online travel companies including Orbitz Worldwide Inc., Priceline.com Inc., Sabre Inc.'s Travelocity, and Expedia Inc., including its subsidiaries Hotels.com and Hotwire, have been selling hotel rooms online for years without paying the necessary taxes.

Company representatives did not immediately return requests for comment late Tuesday.

The court ruled in January that the companies, which are based in states including Washington, Texas, Illinois and Connecticut, owe Hawaii \$158 million, including interest, for unpaid taxes from 2000 through 2011.

The tax court levied the \$70 million penalty Monday.

Hugh Jones, from the Hawaii Attorney General's Office, said that all in all, the companies now owe the state about \$230 million. The companies raked in more than \$2.7 billion in revenue in Hawaii between 2000 and 2011, he said.

The state says it anticipates collecting \$20 million a year in tax revenue from the travel sites now that the court battle has been won.

Unlike many other states, Hawaii doesn't have a sales tax. But the state's general excise tax applies to all business activities.

Randall Roth, a law professor at the University of Hawaii, says the tax is unusual in its breadth.

"We tax a lot of things that wouldn't be taxed elsewhere," said Roth, estimating that the general excise tax brings in about as much revenue as a 12 percent sales tax.

Roth said he hadn't read the court's opinion but was confident the decision will have repercussions.

"My hunch is that it could be a whole new ball game in terms of things that are taxed," Roth said. "I think the state of Hawaii will get very aggressive."

The state is examining how the general excise tax might apply to other online transactions, Jones said.

"The full reach of the general excise tax as to electronic commerce is still evolving," said Jones, noting that numerous other states are grappling with the same issue.

But Jones said the strength of the companies' physical presence in Hawaii — through contracts to lease property and sell hotel rooms — helped the state prove its case.

"They do have some boots on the ground here," he said. He says online retail transactions through companies like Amazon.com Inc. may not have that physical element, but he noted the general excise tax applies to "virtually every economic activity imaginable."

Fresh off its court victory, Hawaii is still pursuing the travel companies to get them to pay the Hawaii's transient accommodations tax. The tax is levied on people who rent out places for short-term visitors to stay.

The attorney general's office says the companies owe about \$400 million in unpaid transient accommodations taxes. The office says the state could earn about \$40 million a year if the online travel sites are made to pay the tax.