



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

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For Immediate Release: March 19, 2013

News Release 2013-4

ONLINE TRAVEL COMPANIES ORDERED TO PAY THE STATE \$70 MILLION IN PENALTIES ON UNPAID GENERAL EXCISE TAXES

HONOLULU—Tax Appeal Court Judge Gary W.B. Chang yesterday granted the State of Hawaii’s motion for summary judgment, finding that Online Travel Companies (“OTCs”) selling Hawaii hotel rooms over the Internet and otherwise owe the State tax penalties provided by law for failure to file Hawaii General Excise Tax (“GET”) returns and to pay the taxes over a ten year period. The penalties, including interest owed by the OTCs on the penalties, now total approximately \$70 million.

On January 11, 2013, Judge Chang granted summary judgment in favor of the State of Hawaii against OTCs including Expedia, Hotels.com, Hotwire, Orbitz, Travelocity and Priceline, ruling that the GET applies to the sales of Hawaii hotel rooms by OTCs. The amount of unpaid taxes owed is approximately \$158 million, which includes interest. These unpaid taxes cover the period from 2000 through 2011. In addition to the unpaid taxes, the court’s ruling could result in future GET collections of approximately \$20 million annually.

On March 7, 2013, the state appealed from a ruling that the OTCs did not have to pay the state’s transient accommodations tax (“TAT”) which is a tax on the gross receipts of any “operator” of transient accommodations. The state believes that the OTCs are “operators” because they are involved in the actual furnishing of transient accommodations, and because the definition of “operator” includes persons involved in the actual furnishing of transient accommodations. Approximately \$400 million is involved in unpaid TAT. Should the state prevail on the TAT appeal, the state would likely collect approximately \$40 million in additional TAT going forward.

Attorney General David M. Louie announced that the state is pleased that the court determined that the OTCs did not have reasonable cause not to file general excise tax returns or to pay the taxes owed, stating that “the OTCs did not produce any advice from legal counsel or accounting professionals advising that their position was reasonable and that they did not have to pay the state’s general excise taxes.” Louie

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General Excise Taxes

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explained that “the burden is on taxpayers to demonstrate that they had reasonable cause not to file or pay the taxes, and we believe the court correctly found that the OTCs failed to prove their case.”

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