



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

NEIL ABERCROMBIE
GOVERNOR

DAVID M. LOUIE
ATTORNEY GENERAL
Phone: (808) 586-1500

RUSSELL A. SUZUKI
FIRST DEPUTY ATTORNEY GENERAL

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COURT ORDERS ONLINE TRAVEL COMPANIES TO PAY STATE OF HAWAII \$150 MILLION IN GENERAL EXCISE TAXES

HONOLULU – A ruling by Tax Appeal Court Judge Gary W.B. Chang requires online travel companies (“OTCs”) to pay the state approximately \$150 million in overdue taxes.

Judge Chang granted summary judgment yesterday for the State of Hawaii against OTCs including Expedia, Hotels.com, Hotwire, Orbitz, Travelocity and Priceline, ruling that the Hawaii General Excise Tax (“GET”) applies to the sales of Hawaii hotel rooms by online travel companies. The amount of unpaid taxes owed is approximately \$110 million, plus interest of an additional approximate \$40 million. 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, beginning in 2012. The court also ruled that the OTCs did not owe transient accommodation taxes on these sales.

Since 2000, the OTCs have made sales of over \$2.7 billion of Hawaii hotel rooms. The OTCs collected sufficient money to cover the GET and transient accommodation taxes from consumers purchasing Hawaii hotel rooms, but never filed any returns or paid any taxes to the State of Hawaii.

Judge Chang ruled that the GET is a privilege tax imposed on businesses for the privilege of doing business in the State of Hawaii. He emphasized the broad nature of the GET and ruled that it included the sale of Hawaii hotel rooms by OTCs.

“This is a significant ruling for the people of Hawaii,” Governor Neil Abercrombie said. “When I first came into office, I made this a top priority after I discovered that the previous administration had chosen not to pursue these taxes. I asked the Attorney General and the Tax Director to aggressively and relentlessly go after these taxes that were due and owing. The court’s ruling shows that we were right to pursue this.”

Attorney General David Louie stated, "We are very pleased that Judge Chang recognized that the state's GET casts a wide and tight net and that these taxes are owed and should be paid." Louie also stated, "Hawaii hotels are good corporate citizens, paying their fair share of taxes to support the state's infrastructure, such as roads, schools, personnel and other costs, and the OTCs need to also play by the rules and pay their fair share. We look forward to reaching a final resolution and collecting these monies for the people of Hawaii."

Director of Taxation Frederick Pablo also praised the court's ruling, stating, "The court correctly identified the GET as a tax that is imposed on almost all economic activity, including electronic commerce, such as the sale of Hawaii hotel rooms." Pablo continued, "We thank the Attorney General's Office and our Special Deputy Attorneys General who have labored since 2007 to pursue these unpaid taxes."

The OTCs have the right to appeal the Tax Appeal Court's ruling on the GET. Likewise, the state will have the right to appeal the court's adverse ruling on the transient accommodations tax. Further proceedings in the Tax Appeal Court will be held on March 8, 2013 in which the state is seeking penalties for the failure of the OTCs to file tax returns or pay the taxes due. A trial date has been set for April 15, 2013 to resolve any outstanding issues.

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For more information, contact:

Anne Lopez

Special Assistant to the Attorney General

(w) (808) 586-1284

(c) (808) 782-5051

anne.e.lopez@hawaii.gov

<http://hawaii.gov/ag/>