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## Twin Cities want travel firms to pay taxes in full

Minneapolis and St. Paul say the online booking agents have shortchanged the cities, but the companies contend that they don't have to pay full rates.

By **CHRIS HAVENS**, Star Tribune

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Minneapolis and St. Paul are considering suing Internet travel booking companies to recover hundreds of thousands of dollars in tax revenue that the cities say they are owed.

The city attorneys declined to name specific companies. States and cities elsewhere have sued such websites as [Hotels.com](http://Hotels.com), Orbitz and Travelocity.

At a time of severe budget conditions, the cities say they -- and taxpayers -- are being shortchanged because online companies pay occupancy taxes only on the discounted wholesale price for hotel rooms but not on the higher rate they charge when reselling them to customers.

The online companies disagree, saying that the governments don't understand the business model. The companies say they merely provide a reservation service and do not actually purchase or provide rooms. They say tax ordinances apply to hotel operators, not to companies that enable travelers to book their own rooms.

"These lawsuits are founded on misconceptions," said Art Sackler, executive director of the Internet Travel Services Association.

Cities, counties and states across the country have made numerous legal claims seeking millions of dollars in allegedly underpaid taxes from online travel companies, but the results have been mixed. An administrative hearing officer ordered several companies to pay the city of Anaheim, Calif., about \$21 million. Conversely, the companies were successful in getting a suit brought by Pitt County, N. C., dismissed in a federal appeals court.

Minneapolis and St. Paul say they are confident they would prevail in court.

The cities say they plan to send letters to the companies asking them to comply with the law and, depending on the response, the

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cities could choose to sue.

"We think this is a responsible course of action to recover taxpayer money," St. Paul City Attorney John Choi said.

Neither city has determined a specific amount, but both city attorneys said there's potential to recover hundreds of thousands of dollars. They would try to recover amounts from the time the companies began to do business in the cities.

Minnesota's Department of Revenue potentially stands to recover much higher amounts, but it hasn't pursued legal action. The department has been watching the issue for a few years and has "taken a wait-and-see position to monitor how the courts viewed this in other states," said agency spokeswoman Kit Borgman.

The cities want to hire an outside law firm, Lockridge Grindal Nauen, to pursue the case. The firm has said it would do so on a contingency basis. Both city councils would need to approve the hiring; resolutions will be brought before them soon.

"We have an upside here and no downside," said Minneapolis City Attorney Susan Segal.

The governments generally have explained their cases by saying that the online companies buy rooms from the hotel at one price and sell those rooms to consumers at a higher price. The companies pay tax on the transaction with the hotel but not with the consumer. That's not right, the governments say.

The companies would explain it differently, said Brian Stagner, an attorney who represents Travelocity and Site59.

In Travelocity's case, he said, the price a consumer sees on the website is the sum of two things. The first is a negotiated rate that the hotel agrees to so it can have its rooms on the site. The second is a collection of fees that Travelocity adds for facilitating the reservation and making the process convenient for consumers.

"We are intermediaries between the traveler and the hotel, and do our best to introduce them to one another and to facilitate a booking," Stagner said. "Tour operators and travel consolidators have used the exact same business model in the offline environment for more than 40 years. No one has ever contended they are subject to local hotel tax."

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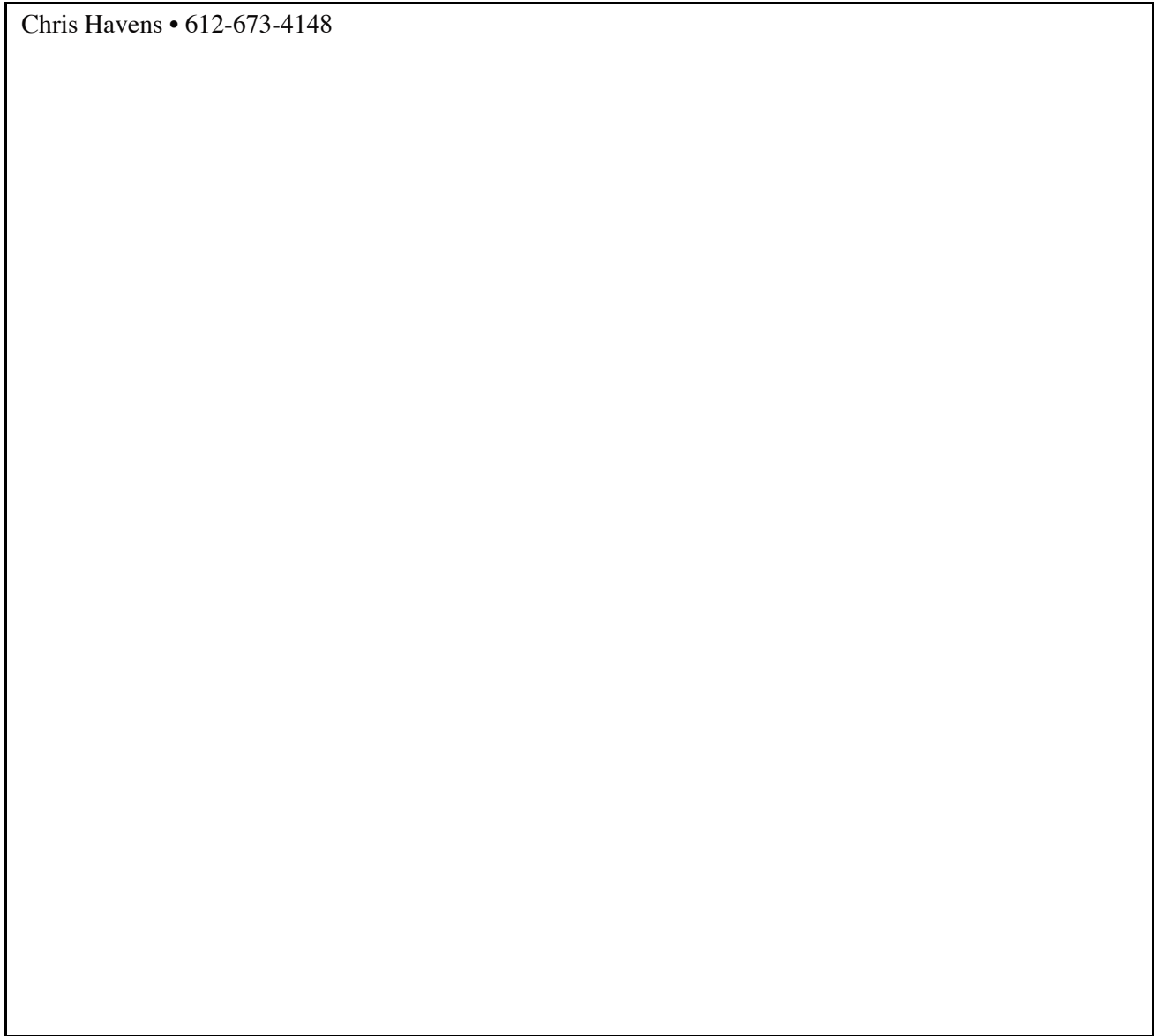
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