

DEPARTMENT: Administration

BY: Rick Benson  
PHONE: 966-3222

**RECOMMENDED ACTION AND JUSTIFICATION:** Approve and authorize Chairman to sign letter in opposition to the "Internet Travel Tax Fairness Act."

There is a proposal circulating in Congress which would give certain online hotel booking agencies the right to reduce or even eliminate their payment of TOT. On July 1 an industry group representing these online booking agencies kicked off a campaign including a new website to try to garner public support for this measure. Staff believes it is important for your Board to take a clear position on this matter.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:** Mariposa County has a history of contacting legislators when proposed legislation has a direct impact on the County.

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:** If no action is taken the interests of the County will not be transmitted to our legislators.

Financial Impact? ( ) Yes (x) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		<u>Draft Letter</u>
Source:		
Internal Transfer		
Unanticipated Revenue	_____ 4/5's vote	
Transfer Between Funds	_____ 4/5's vote	
Contingency	_____ 4/5's vote	
( ) General ( ) Other		

**CLERK'S USE ONLY:**

Res. No.: 10-328 Ord. No. \_\_\_\_\_  
 Vote - Ayes: 5 Noes: \_\_\_\_\_  
 Absent: \_\_\_\_\_  
 Approved  
 Minute Order Attached  No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: \_\_\_\_\_  
 Attest: MARGIE WILLIAMS, Clerk of the Board  
 County of Mariposa, State of California

By: \_\_\_\_\_  
 Deputy

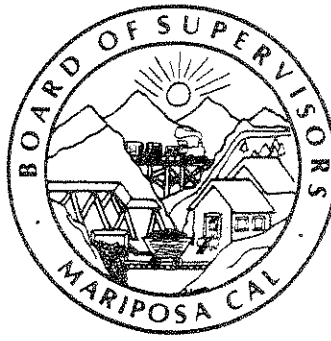
**COUNTY ADMINISTRATIVE OFFICER:**

Requested Action Recommended  
 No Opinion  
 Comments:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

CAO: [Signature]

# Mariposa County Board of Supervisors

District 1 .....BRAD ABORN  
District 2 ..... LYLE TURPIN  
District 3 ..... JANET BIBBY  
District 4 ..... KEVIN CANN  
District 5 ..... JIM ALLEN



RICHARD J. BENSON  
County Administrative Officer

MARGIE WILLIAMS  
Clerk of the Board

P.O. Box 784  
MARIPOSA, CALIFORNIA 95338  
(209) 966-3222  
1-800-736-1252  
FAX (209) 966-5147  
[www.mariposacounty.org/board](http://www.mariposacounty.org/board)

July 13, 2010

The Honorable Barbara Boxer  
United States Senator  
112 Hart Senate Office Building  
Washington, DC 20500

Dear Senator Boxer:

We are writing to express our strong opposition to draft legislative language (sometimes referred to as the "Internet Travel Tax Fairness Act" or ITTFA) that would restrict the authority of state and local governments to fully collect hotel occupancy taxes from online travel companies (OTCs) (e.g., Expedia, Orbitz, Travelocity, etc.) when hotel rooms are booked through OTCs.

By way of background, when a guest books a room through an OTC, the guest pays the OTC the retail price for the room, and the OTC passes on to the hotel the lower, wholesale rate they have negotiated for the right to book the room. The OTCs also pass on occupancy taxes owed to local taxing jurisdictions based on the wholesale rate negotiated with the hotel, not the retail rate paid by the guest.

This has created a situation in which, if a guest books a room through a hotel-company website for \$100 in a jurisdiction with a 10 percent occupancy tax, they are charged \$100 for the room and \$10 for the tax. The hotel keeps the \$100 and passes the \$10 on to the local jurisdiction. If, on the other hand, the guest books the same room through an OTC, the room rate is the same \$100, and the OTC charges \$10 in "taxes and fees." So the transaction looks virtually identical to the guest. However, in this situation the OTC remits to the hotel a lower negotiated rate -- say \$80, plus \$8 (10 percent of their negotiated rate). The hotel keeps the \$80 and passes on the \$8 to the local jurisdiction.

Many local jurisdictions have become aware of the fact that, for the same room for which the guest pays the same \$110 (including taxes and fees), they have been receiving \$10 in tax if booked through the hotel, but only \$8 in tax if booked through an OTC. As a result, jurisdictions across the country have filed and prevailed in lawsuits against some of the OTCs for tax revenues they believe they are owed.

Many tax jurisdictions have begun to update their ordinances in order to make it absolutely clear that occupancy taxes are due based on the retail amount a customer pays. In this way, they are trying to clarify that OTCs are liable for occupancy taxes on the amount for which they advertise and sell the room, i.e. the retail rate, just like hotels.

In response to the growing number of lawsuits and ordinance clarifications throughout the country, OTCs initiated a lobbying campaign in Congress to pass ITTFA, which would create a special tax preference for OTCs by preempting state and local taxing authorities' ability to fully levy occupancy taxes on OTC transactions. ITTFA would do three things:

1. Create a unique federal tax preference for OTCs by preempting state and local governments from collecting occupancy taxes on rooms sold by OTCs for any amount over what the OTCs provide to the hotel for the room, regardless of what the room was advertised and sold for by the OTC;
2. Extend the tax preference to traditional travel agents whose transactions currently and indisputably are subject to occupancy taxes based on the retail rate the room is advertised and sold for; and
3. Prospectively prevent jurisdictions from pursuing litigation to collect taxes they believe they are owed.

State and local governments are not proposing a new tax on internet commerce. Well before the establishment of OTCs, hotel occupancy taxes have been collected. Hotel taxes are an extremely important revenue source for Mariposa County. As a small, rural County we rely on the Transient Occupancy Tax in order to provide many valuable services to our residents and the millions of tourists who passed through our area.

We are certain you are aware of the fiscal challenges facing California's counties and the state itself. Passage of the ITTFA would only put additional pressure on the limited resources of our counties, municipalities and the state. Keeping in mind the inherent unfairness of the proposed legislation, we believe its passage would serve no positive purpose. A hotel consumer would not see any decrease in what they pay for a room. Rather, they would be led to believe that they are paying higher taxes than what is being remitted to the local taxing authority.

The current economic downturn has impacted the U.S. hospitality industry particularly hard. State and local governments are struggling to balance their budgets and provide basic services to their constituents. ITTFA merely shifts the OTCs' tax burden onto others to the detriment of our communities and public sector jobs. No segment of an industry should be allowed to manipulate the tax code to secure a competitive advantage over another segment while simultaneously shortchanging cities and counties.

We strongly oppose the "Internet Travel Tax Fairness Act" and urge you to do the same.

Sincerely,



Kevin Cann  
Chairman  
Mariposa County Board of Supervisors

KC/RB/mj