

Bond Case Briefs

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City and County of Denver v. Expedia, Inc.

Supreme Court of Colorado - April 24, 2017 - P.3d - 2017 WL 1449530 - 2017 CO 32

Online travel companies sought review of hearing officer's determination that they owed lodger's taxes, along with penalties and interest, to city that assessed those taxes in connection with fees charged by companies for facilitating hotel reservations.

The District Court affirmed in part and vacated in part. Companies and city appealed. The Court of Appeals affirmed in part and reversed in part. City petitioned for review.

The Supreme Court of Colorado held that:

- Companies were "vendors" with responsibility to collect lodger's tax and remit it to city, and
- Companies' markup for selling reservations to lodgers, which companies retained, was subject to tax.

Online travel companies were "vendors" with responsibility to collect lodger's tax and remit it to city. Companies set rate they would accept from lodgers, lodgers transacted with companies and prepaid for reservations, and companies retained difference between price paid by lodgers and amount paid to hotels.

Online travel companies' markup for selling reservations to lodgers, which companies retained, was subject to city's lodging tax, which included tax on purchase price paid or charged for lodging. Purchaser had no option to decline markup in making his purchase of lodging from companies, and it was therefore inseparable from selling price of lodging.