

Sales/Use/Indirect:

Mississippi Supreme Court Says OTCs are Not Subject to Tax on Gross Income of Hotels

Case No. 2021-CA-00868-SCT, Miss. (9/28/23). In a case involving “merchant model transactions” where online travel companies (OTCs) act as the merchant of record and facilitate the booking of hotel rooms, airline seats, car rentals and destination services from travel suppliers, the Mississippi Supreme Court (Court) reversed lower courts to hold that the OTCs are *not* “hotels” as contemplated by Mississippi statutes that levy a 7% hotel sales tax against the gross income of hotels. In doing so, the Court explained that the nature of the OTCs’ business is to provide an intermediary service between hotels and customers rather than furnish or provide rooms. Similarly, the Court held that the OTCs are not subject to local hotel taxes because they i) neither provide nor furnish rooms, ii) are not physical establishments or places of lodging, and iii) are not known to the trade as “hotels.” Dissenting opinions follow. Please contact us with any questions.

URL: <https://courts.ms.gov/images/Opinions/CO171750.pdf>

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