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DECLARATORY JUDGMENT ON HOTEL TAX APPLICATION MAY PROCEED

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A panel of the Commonwealth Court held that a county could proceed with a declaratory judgment action seeking to establish that online reservation companies are subject to the county's hotel tax. *County of Lawrence v. Hotels.com LP*, No. 2541 C.D. 2010 (Pa. Commw., Aug. 3, 2011). The court held that because the action was for a declaratory judgment, the rule of exhaustion of administrative remedies did not apply. See 42 Pa. C.S. §§ 7541(b), (c)(2). The court stated that a court was in the best position to resolve the question whether the enabling statute and county ordinance applied to online reservation companies. The court did not cite or discuss *Cherry v. City of Philadelphia*, 692 A. 2d 1082 (Pa. 1997), or *City of Philadelphia v. Hotels.com*, July Term 2005, No. 860 (Phila. Com. Pleas May 25, 2006), which held respectively that a taxpayer and the City of Philadelphia could not proceed directly to court for a ruling on the application of tax statutes, but must proceed first before the City's Tax Review Board.

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