

June 19, 2015

Volume 21, Issue 21

For more information on Michigan's gaming industry, please visit www.michigangaming.com

Editor in Chief

David D. Waddell, Esq.

Phone: 517.507.3859

waddell@rmclegal.com

Senior Gaming Analyst & Editor

Robert R. Russell, II

Phone: 517.507.3858

russell@rmclegal.com

Reporter and Associate Editor

Dustin M. Ford

Phone: 517.999.5414

dford@rmclegal.com

Reporter

Blaine R. DeGracia

Phone: 517.507.3857

degracia@rmclegal.com

Subscription information:

info@michigangaming.com

A publication of

RMC Ventures, LLC

Asher Court

321 W. Lake Lansing Rd.

East Lansing, MI 48823

Phone: 517.507.3860

Fax: 517.908.0235

www.rmclegal.com

The MICHIGAN GAMING Newsletter



MICHIGAN GAMING CONTROL BOARD RELEASES DETROIT CASINO REVENUES FOR MAY, 2015

The Michigan Gaming Control Board (“MGCB” or “Board”) released the May, 2015 total adjusted revenue figures for the three Detroit casinos—MGM Grand Detroit Casino, MotorCity Casino and Greektown Casino. Overall, the revenue for the Detroit market was up 4.6% compared to the same reporting period last year. For the first five months of 2015, the casinos’ aggregate revenue was up 5.6% compared with the same period last year.

Month in 2015	Total Adjusted Revenue 2015		
	MGM Grand Detroit	MotorCity Casino	Greektown Casino
	Total Adjusted Revenue	Total Adjusted Revenue	Total Adjusted Revenue
January	\$46,227,016.63	\$38,061,452.27	\$26,733,375.86
February	\$47,523,251.14	\$39,023,483.79	\$27,875,609.34
March	\$49,824,133.92	\$43,432,911.12	\$30,646,861.38
April	\$51,849,138.07	\$40,532,401.92	\$28,167,335.92
May	\$51,747,439.96	\$39,825,609.22	\$28,242,004.16
Total	\$247,170,979.72	\$200,875,858.32	\$141,665,186.66

Specifically, revenue for MGM Grand Detroit Casino, MotorCity Casino and Greektown Casino was up by 9.2%, 1.9%, and 0.7% during May, 2015 when compared to the same month last year.

All three casinos are subject to a wagering tax of 19%, with 10.9% of this levy to go to the City of Detroit and 8.1% to be paid to the State of Michigan.

Month in 2015	Total Adjusted Revenue and Taxes 2015		
	All Detroit Casinos		
	Total Adjusted Gross Receipts	Total State Wagering Tax	Total Detroit Wagering Tax
January	\$111,021,844.76	\$8,992,769.43	\$12,101,381.08
February	\$114,422,344.27	\$9,268,209.89	\$12,472,035.53
March	\$123,903,906.42	\$10,036,216.42	\$13,505,525.80
April	\$120,548,875.91	\$9,764,458.95	\$13,139,827.47
May	\$119,815,053.34	\$9,705,019.32	\$13,059,840.81
Total	\$589,712,024.70	\$47,766,674.00	\$64,278,610.69

The market shares for MGM Grand Detroit, MotorCity Casino, and Greektown Casino for May 2015 were 43%, 33%, and 24%, respectively.

The figures released by the Board are the gross receipts less winnings paid to wagerers. The figures do not include: 1) any fees or other relevant city, state or federal taxes; 2) wages and benefits paid to casino employees; 3) payments to suppliers, services providers or vendors; and 4) other normal business expenses.

LITTLE RIVER BAND BREAKS GROUND ON RENOVATION

On Monday, June 15, 2015, the Little River Casino Resort, located in Manistee, broke ground for its \$18M casino expansion and renovation project to include renovation of the gaming floor, new pool and spa.

Construction is set to begin this month and be completed by the spring of 2016. The casino will remain open during construction.

Notably, on Tuesday, February 24, 2015, the Little River Band of Ottawa Indians (“LRBOI” or “Tribe”) announced that it has filed an application to the Bureau of Indian Affairs (“BIA”) regional office to take land into trust for a proposed casino and economic development project to be located on 60 acres of the former Great Lakes Downs racetrack site in Fruitport Township.

According to the LRBOI, it would invest \$180 million to build a new casino and economic development project. The project is expected to generate more than 1,200 new jobs in Muskegon County.

The Great Lakes Downs racetrack opened in 1999 and closed in 2007. The LRBOI purchased the property in 2008 with plans to build a casino and economic development project. As proposed, the project would include approximately 69,000 square feet of gaming floor space; 1,700 slot machines; 35 table games; 220-room hotel; conference and meeting room space; and dining and entertainment options.

The LRBOI opened the Little River Casino Resort in 1999 in Manistee. For more information about the Tribe, visit <http://www.lrboi-nsn.gov/>.

FIREKEEPERS LOCAL REVENUE SHARING BOARD MAKES \$4.8M IN PAYMENTS

On Wednesday, June 17, 2015, the six-member FireKeepers Local Revenue Sharing Board (“LRSB”) approved approximately \$4.8M in revenue sharing distributions to local units of government in accordance with the Nottawaseppi Huron Band of Potawatomi Indians’ (“Tribe”) Tribal-State Gaming Compact with the State of Michigan. The Board

receives revenue sharing payments from the Tribe's operation of the FireKeepers Casino Hotel, evaluates requests for funding, and approves disbursements to local schools, emergency services, and other public agencies.

According to the Tribe's Gaming Compact with the State of Michigan, the Tribe provides two-percent (2%) of its net win from electronic gaming devices to the LRSB.

The LRSB consists of representatives appointed from Calhoun County, Emmett Township, and other local units of government. Revenue payments are distributed to local public safety organizations, and other local units of government. Historically, payments have also been used to support local road and public utility offices, schools, community colleges, libraries, and medical facilities.

Firekeepers Casino Hotel opened in August of 2009 and features 2,900 slot machines, 70 table games, a 242 room hotel, and a variety of dining, retail, and entertainment outlets. Between 2010 (the first full year of the casino's operations) and 2013, the Tribe has contributed an average of approximately \$4.9 Million per year to local units of government.

SIXTH CIRCUIT AFFIRMS FIFTH AMENDMENT RIGHTS FOR RACING LICENSEES

On Tuesday, June 16, 2015, the US Court of Appeals for the Sixth Circuit issued an opinion finding that horse racing license applicants may assert Fifth Amendment rights against self-incrimination to refrain from responding to questions asked by a regulator without suffering adverse licensing action. The ruling follows a lawsuit filed by four harness horsemen that had been denied racing licenses due, in part, to their refusal to answer certain questions during a regulatory investigation.

The Sixth Circuit found that the racing licenses had been denied licenses solely for the fact that the applicants asserted their Fifth Amendment rights by declining to answer potentially incriminating questions. "Based on the applicable law, the facts

viewed in the light most favorable to the harness drivers show that the Constitution entitled the harness drivers to refuse to answer potentially self-incriminating questions, unless the state immunized them from prosecution. To punish the drivers violated the Constitution, and both suspension and exclusion [from horse racing] constitute punishment."

In addition, the Sixth Circuit remanded certain claims related to the licensing denial and appeals procedures for further consideration by the District Court. For the full text of the Sixth Circuit opinion, [please click here](#).

AGA PRESIDENT & CEO TESTIFIES AT IRS HEARING ON GAMING PROPOSAL

On Wednesday, June 17, 2015, American Gaming Association's ("AGA") president and CEO Geoff Freeman testified at the Internal Revenue Service ("IRS") hearing on the proposed rules regarding electronic player tracking regulations using player loyalty cards for tax reporting purposes.

The industry's greatest concern, Mr. Freeman said, is that the proposal mandates electronic player tracking. This would pose significant challenges, since marketing tools are not equipped to serve this purpose and customers are uncomfortable with the proposed approach. Further, the mandate is inflexible and inconsistent with existing state requirements.

"While we recognize the IRS' concerns and objectives, we question the need to impose mandatory, across-the-board use of the player-tracking tool for tax reporting purposes," stated Mr. Freeman. "Rather than mandating across-the-board use for tax reporting, we believe a more targeted approach is possible for achieving the IRS' objective."

Freeman detailed how a new voluntary electronic player tracking arrangement could be established for slot tax reporting if casinos were given sufficient lead time to develop systems and controls. Electronic tracking would also need to be

an option for casinos, voluntary for customers and suitable for the IRS.

prepared, [please click here.](#)

Mr. Freeman also made clear the industry's opposition to the potential proposal to lower the slot jackpot reporting threshold from the current \$1,200 level to \$600.

"The casino gaming industry strongly opposes any such reduction," he said.

After the IRS announced the proposal on March 4, the AGA convened experts from member companies for regular meetings to assess each aspect of it, built consensus and formulated an effective response. AGA officials also met with the IRS in person to discuss the proposal last month.

Notably, 17 members of Congress from eleven states previously sent a [letter](#) to the IRS outlining their concerns with the proposal. States represented were Arizona, Colorado, Florida, Indiana, Iowa, Louisiana, Mississippi, Missouri, Nevada, New Jersey and Ohio.

"If the proposed regulations are set forth as mandatory, then the gaming industry's significant labor cost and lost business revenue to comply would be detrimental to local, state and national economies that depend on needed dollars to support critical services," wrote the members of congress.

In its previously submitted comments, the AGA expressed concern with the proposed mandatory slot tax information reporting that is based on electronic player tracking by the casino. Such a requirement would adversely affect a crucial casino marketing tool and could have a chilling effect, as customers would be reluctant to use or sign up for loyalty cards associated with tax tracking and collection.

The AGA also warned that current electronic player tracking systems were designed for marketing purposes and lack the types of controls necessary to ensure proper compliance with tax information reporting. Conflicting state tax reporting and withholding requirements would also pose serious challenges.

To read the AGA's IRS hearing testimony as