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# The \_\_\_\_\_ MICHIGAN GAMING \_\_\_\_\_ Newsletter



## **MICHIGAN GAMING CONTROL BOARD RELEASES DETROIT CASINO REVENUES & WAGERING TAXES FOR NOVEMBER 2017**

In a [press release](#) dated December 12, 2017, the Michigan Gaming Control Board ("MGCB" or "Board") released the November 2017 revenue figures for the three Detroit casinos – MGM Grand Detroit Casino, MotorCity Casino and Greektown Casino.

The three Detroit casinos reported \$113.1 million in aggregate revenue for November 2017, a 1.4 percent increase from the same month last year. Please see the linked [State of Michigan official financial report](#).

Year-to-date aggregate revenue rose 1.2 percent above the Detroit casinos' revenue for the first 11 months of 2016. November revenue increased a fractional 0.4 percent compared with October 2017 results.

Revenue rose at MGM by 0.8 percent to \$48.6 million and at MotorCity by 2.7 percent to \$38.2 million when compared with November 2016 results. Greektown revenue increased 0.7 percent to \$26.3 million compared with November 2016 results.

The November 2017 market shares for MGM Grand Detroit, MotorCity Casino and Greektown Casino were 43%, 34% and 23% respectively.

During November 2017, the three Detroit casinos paid \$9.2 million in gaming taxes to the state of Michigan compared with \$9 million for the same month last year. The three casinos reported submitting \$18.3 million in wagering taxes and development agreement payments to the City of Detroit during October.

All three casinos are subject to a wagering tax of 19%, with 10.9% of this levy

payable to the City of Detroit and 8.1% payable to the State of Michigan.

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; nor 4) other normal business expenses.

## **MICHIGAN HOUSE REGULATORY REFORM COMMITTEE APPROVES INTERNET GAMING BILL**

On Wednesday of this week, the Michigan House Regulatory Reform Committee approved House Bills 4926-4928 which would legalize regulated online casino gaming through casinos currently operating in Michigan, including Detroit's three casinos and any tribal casino that reworks its compact with the state to reflect the new technology.

The Bills are sponsored by Representative Iden, who chairs the Regulatory Reform Committee. Following the vote, he stated the following (per the Michigan House GOP website).

"Today's vote was a significant first step toward approval," Iden said. "We'll continue to work with our colleagues in both the House and Senate next year to finalize a system that works for all involved to benefit the state of Michigan."

"This extension of existing gaming will boost revenue to the state and our local communities for essential public services, without asking for more money through general taxes. People already are gambling illegally online. As technology and market forces evolve, legalization of online gaming is inevitable. Michigan should be proactive – legalize it, make it safe for customers by allowing them to play on a secure and regulated system,

and capitalize on its revenue benefits for the public services we all use every day."

The legislation calls for 10 percent of gross gaming revenue to go to the state and local communities, potentially translating to millions of dollars. The plan includes a variety of built-in safety measures for consumers, including an additional \$1 million to help problem gamblers.

Notably, the HB 4926 also indicates that the gaming regulators may authorize sports wagering to occur on-line with respect to college or professional sporting events if such wagering is not prohibited by federal law. As reported in last week's [newsletter](#), the United States Supreme Court is currently considering a case that may overturn the federal prohibition.

## **WAGE TIP REGULATIONS PROPOSED**

On December 5, 2017, the Federal Department of Labor ("DOL") proposed new rules regarding wages for tipped employees. Under the current law, the minimum Federal wage is \$7.25 per hour. Currently, an employer of tipped employees can meet this requirement by paying a lower base wage and include a limited amount of received tips to reach the \$7.25 hourly wage requirement. This procedure is available only if the employer notifies employees of its intention and all tips are retained by the employee. Tips received and pooled among employees (such as is commonly done in the casino industry by dealers) are considered to be retained by the employee. The rules also bar all employers from sharing tips with employees who do not customarily and regularly receive tips—regardless of whether the employer takes advantage of the tip credit provision.

Over the past 5 years, there has been increasing litigation regarding tip pooling and tip retention by employers who do not take advantage of the tip credit. There also has been litigation challenging the DOL's authority to promulgate the rule and apply it to employers who do not take advantage of the tip credit provisions. The recent

trend in state legislatures has been to pass legislation requiring employers to pay employees a direct cash wage of at least the minimum Federal Wage (essentially precluding those employers from utilizing the tip credit provision).

In response to these trends, the DOL has promulgated proposed new rules. According to the published Federal Register, this is because the DOL: “is concerned about the scope of its current tip regulations as applied to employers that pay the full Federal minimum wage to their tipped employees. The Department is also seriously concerned that it incorrectly construed the statute in promulgating the tip credit regulations that apply to such employers. Additionally, the Department seeks to consider whether it is unnecessary to prohibit the sharing of tips with employees who do not customarily receive tips, including restaurant cooks, dishwashers, and other traditionally lower-wage job classifications, when their employer does not take a tip credit under FLSA section 3(m) and its employees are paid at least the full Federal minimum wage.”

The new rules propose rescinding the parts of the tip regulations that bar tip-sharing agreements for employees of employers who pay the full Federal minimum wage and do not take a tip credit. The tip-sharing agreements would still be barred for employers who do take advantage of the tip credit. The new rules will allow employers to agree with their employees to provide for tip-sharing among a larger pool of tip employees (i.e., to potentially include dishwashers, cooks and other lower-wage job classifications). It could also result in back-office employees potentially sharing in the tip pooling. In other words, the regulation proposes that all tip-sharing arrangements for employers who do not take advantage of the tip credit would no longer be subject to DOL regulation and would simply be a matter of agreement between the employer and its employees.

In general, employers favorably view the proposed rulemaking action who may choose to use the tip-pooling arrangements to narrow wage difference between different classifications of employees. In contrast, most tipped employees

such as casino dealers are concerned about the proposed rule, fearful that their income will go down as tips are shared among a greater number of employees than before. Written comments to the proposed rule-making were originally scheduled to end January 4, 2018, but the DOL subsequently extended the deadline to February 5, 2018.

## **LITTLE RIVER BAND OF OTTAWA INDIANS CONTRIBUTES \$1.6 MILLION TO LOCAL GOVERNMENTS**

The Manistee Local Revenue Sharing Board met on Monday of this week and made grant awards. The Little River Band of Ottawa Indians (LRBOI) has provided \$1,665,457 to the Manistee County Local Revenue Sharing Board in 2017, representing local revenue sharing payments from its Little River Casino Resort. In November, LRBOI made a payment of \$930,065 and a payment in May of \$735,391, bringing the total amount of local revenue sharing payments to over \$1.6 million this year, and \$33,65,457 since the casino opened in 1999.

Little River Band of Ottawa Tribal Ogema Larry Romanelli stated the following:

“The Little River Band of Ottawa Indians (LRBOI) is pleased to hear how the Manistee Local Revenue Sharing Board allocated grant funding to local agencies and organizations that will benefit our community. This revenue stemming from the local revenue contributions generated from our Little River Casino Resort continues to show how gaming provides a positive economic impact to both our tribe and local community.”

The Cycle II 2017 payment represents two percent of the slot revenues from the Tribe’s Little River Casino Resort over the past six months. Payments are made twice a year. Under the gaming compact and amendment between the Tribe and the State of Michigan, the Tribe mutually agreed to make annual distributions to the LRSB, which distributes the funds to local

governments and schools in the area.

In addition, in accordance with the state gaming compact and amendment, the Little River Band has paid the state of Michigan \$90 million to the Michigan Economic Development Corporation. The annual Michigan Gaming Control Board (MGCB)/Michigan Economic Development Corporation (MEDC) Oversight payment outlined in the Compact of \$50,000 for period 10/1/2016-9/30/2017 was also paid in November 2017.

The Tribe has operated Little River Casino Resort for nearly 18 years. The Little River Casino Resort is the largest employer in Manistee County, providing more than 1,000 jobs and millions of dollars to local vendors.

The LRSB uses the funds to reimburse local units of governments for costs due to the casino (i.e. law enforcement and emergency services) and to provide a payment in lieu of property tax revenue. Any additional funds are then divided by the local governments and have been used to provide funding for critical needs in the local community.