

**PROTOCOL AGREEMENT BETWEEN THE
MICHIGAN DEPARTMENT OF TREASURY AND THE
SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN**

This Agreement made by and between the MICHIGAN DEPARTMENT OF TREASURY (Treasury) and the SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN is entered into solely for the effective administration and enforcement of the TAX AGREEMENT between the SAGINAW CHIPPEWA INDIAN TRIBE OF MICHIGAN and the State of Michigan made and entered into on the _____ day of _____ (Tax Agreement) and in a manner consistent with the applicable statutes, regulations, published rules and procedures, or written communication.

This Agreement serves to identify the individual and mutual responsibilities and restrictions on data access and use of tax returns and tax return information to be assumed by the Tribe and Treasury in the release, administration, collection, transfer, storage, analysis, and distribution of tax returns and tax return information.

Every authorized Tribal employee who will be granted access to Michigan tax returns and tax return information agrees to use the data only for the purpose of the administration and enforcement of the taxes that are the subject of the Tax Agreement.

I. PURPOSE

This Agreement facilitates the exchange of information between Treasury and the Tribe. It sets forth conditions under which Treasury agrees to disclose Michigan tax returns and tax return information relating to Tribal Members and Tribal Entities to the Tribe and sets forth the manner in which information received from the Tribe in the administration of the Tax Agreement may be disclosed by Treasury. Any information exchanged will be used only to the extent the use is authorized by the laws of the state of Michigan or is necessary for the administration and enforcement of the terms of the Tax Agreement.

II. AUTHORITY

Authority for Treasury to enter into this Agreement is contained in 1941 PA 122, MCL 205.30c(12)(d) and the Tax Agreement that provides for the voluntary disclosure of information between Treasury and the Tribe in the proper administration of the Tax Agreement. This Agreement survives the termination of the Tax Agreement and the Tribe has a continuing obligation to keep Michigan tax returns and tax return information received from Treasury confidential.

III. DEFINITIONS

A. State's Indian Affairs Specialist is responsible for the negotiation and implementation of the Tax Agreement, the Protocol Agreement and the ongoing administration of taxes under the Revenue Act, MCL 205.1, et.seq.

B. Tax Return: Any state tax or information return, declaration of estimated tax, or claim for refund

required by or provided for or permitted under the provisions of tax statutes administered by the Department or the Tribe, or related statutes of the State or the Tribe, and any amendment or supplement thereto, including supporting schedules, attachments or lists which are supplemental to or part of the return so filed (See RAB 1989-39). For the purposes of this Agreement only, a tax return is defined as any form or collection of forms filed physically or electronically with the Michigan Department of Treasury or the Tribe for the administration of taxes covered by the Tax Agreement.

- C. Tax Return Information:** Taxpayer's identity, address, the source or amount of his/her income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments whether the taxpayer's return was, is being or will be examined or subject to other investigation or processing, or any other data, received by, recorded by, prepared by, furnished to, or collected by the agency with respect to a return or with respect to the determination of the existence, or liability (or the amount thereof) of any person under the tax laws administered by the Department, or the Tribe or related statutes of the state or Tribe for any tax, penalty, interest, fine, forfeiture, or other imposition or offense. The term tax return information also includes any and all account numbers assigned for identification purposes.
- D. Michigan Tax Return and Tax Return Information** means tax return information that is a) in the possession of Treasury, or b) was in the possession of Treasury that has been made available to the Tribe. Tax return information received from the Tribe shall, upon receipt, become Michigan tax return information and be treated as such under the terms of this Agreement.

IV. EXCHANGE

It is agreed that any exchange of tax returns or tax return information between Treasury and the Tribe will be conducted in accordance with this Agreement and the Tax Agreement. From time to time, as necessary for the administration and enforcement of the Tax Agreement, Treasury and the Tribe may make certain tax return information available to each other, either upon request or voluntarily. Where a specific tax return is requested, then any such request filed will clearly state in writing the need and intended use of the information and documents requested.

A request to Treasury for a specific tax return must be signed by the Tribe's designated authorized official and directed to the State's Indian Affairs Specialist, or such other person designated by the State Treasurer. A request to the Tribe must be signed by the State's Indian Affairs Specialist or such other person designated by the State Treasurer, and directed to the Tribe's designated authorized official.

The parties agree that either party may refuse to furnish information where a party believes such transfer of information would violate state, tribal or federal law or would identify a confidential informant or seriously impair a civil or criminal investigation.

V. CONFIDENTIALITY

It is agreed that all tax returns and tax return information exchanged under this Agreement by the Tribe to Treasury shall be kept confidential in accordance with the confidentiality provision contained in the Michigan Revenue Act, MCL 205.28(1)(f) that states in part:

Except as otherwise provided in this subdivision, an employee, authorized representative, or former employee or authorized representative of the department or anyone connected with the department shall not divulge any facts or information obtained in connection with the administration of a tax or information or parameters that would enable a person to ascertain the audit selection or processing criteria of the department for a tax administered by the department.

All information received by the State in the administration of a tax under this Agreement is subject to the confidentiality provisions of MCL 205.28(1)(f) and may be disclosed only in the manner and for the purposes specified in the provision; provided, however that despite the provisions of MCL 205.28(1)(f) authorizing the Treasurer to disclose such information upon the written request of or pursuant to a reciprocal agreement with the United States Department of Treasury or any other state, the Treasurer agrees not to make such disclosure with respect to tax information set forth in a tax return, or report received from the Tribe, or as a result of any investigation or audit of the Tribe pursuant to the Tax Agreement.

Michigan tax returns or tax return information obtained by the Tribe shall not be further disclosed, except as required for the proper administration and enforcement of the terms of the Tax Agreement.

In the event confidentiality statutes are amended, Treasury shall notify the Tribe of any changes. No employee, agent, authorized representative or legal representative of either party to this Agreement, shall disclose any Michigan tax returns or tax return information obtained by virtue of this Agreement, except as provided in Section I.E. of the Tax Agreement. All Michigan tax returns or tax return information accessed by either party shall only be duplicated or disseminated in accordance with this Agreement and the Tax Agreement. Michigan tax returns and tax return information remain the property of Treasury.

VI. PROCEDURE FOR SECURITY

At a minimum, Treasury and the Tribe will safeguard any Michigan tax returns or tax return information obtained under this Agreement as follows:

- A. Access to Michigan tax returns and tax return information will be allowed only to those authorized employees and officials who need the information to perform their official duties in connection with the uses of the information authorized in this Agreement.
- B. Any records created from the Michigan tax returns and tax return information will be stored in an area that is physically safe from access by unauthorized persons during duty hours, and locked in a secure area during non-duty hours, or when not in use.
- C. Any records matched and any records created by the match will be processed under the immediate supervision and control of authorized personnel in a manner which will protect the confidentiality of the records, and in such a way that unauthorized persons cannot retrieve any such records by means of computer, remote terminal or other means.
- D. All personnel who will have access to Michigan tax returns and tax return information and to any records created from Michigan tax returns and tax return information will be advised annually of the confidential nature

of the information, as well as the safeguards required to protect the information covered under this Agreement.

- E. All Michigan tax returns and tax return information, electronic and paper, shall be secured from unauthorized access. Access shall be limited to designated personnel only. Michigan tax returns and tax return information shall not be commingled with other information.
- F. All Michigan tax returns and tax return information shall be transported under appropriate safeguards. For further information see IRS Publication 1075 at the following Web site <http://www.irs.gov/pub/irs-pdf/p1075.pdf>.
- G. Treasury and the Tribe shall adopt policies and procedures to ensure that Michigan tax returns and tax return information contained in their respective records and obtained from either signatory shall be used solely as provided in this Agreement.

VII. COMPUTER SYSTEM SECURITY OF TAX DATA

Controlled Access Protection - Common Criteria: All computer systems processing, storing and transmitting Michigan tax returns and tax return information must have computer access protection controls in place. These security standards are delineated in the "Common Criteria for Information Technology Security Evaluation" (CCITSE) at: http://www.radium.ncsc.mil/tpep/library/ccitse/cc_over.html

VIII. ELECTRONIC TRANSMISSION OF MICHIGAN TAX INFORMATION

The two acceptable methods of transmitting Michigan tax returns and tax return information over telecommunications devices are encryption and using guided media. Encryption involves altering data objects in a way that the objects become unreadable until deciphered with the appropriate software at the intended destination. Guided media involves transmission of data over twisted pair cable, coaxial cable or end-to-end fiber optics which are typically used in secure computer networks like the state's Local Area Network (LAN), telephone systems, and television distribution.

IX. CONTRACT SERVICES

To the extent the Tribe employs an independent contractor, consultant, or agent (contractor) to process confidential information which includes Michigan tax return information, the Tribe shall notify the State's Indian Affairs Specialist, or such other person as designated by the State Treasurer, before the execution of any such Agreement. Each such Agreement shall include the following safeguard provisions:

- A. The identification of Michigan tax returns and tax return information and defining security controls are intended to protect Michigan tax return information from unlawful disclosure, modification, destruction of information, and unauthorized secondary uses.
- B. All Michigan tax return information made available in any format shall be used only for the purpose of carrying out the provisions of the contract. Michigan tax return information contained in such material shall be treated as confidential and shall not be divulged in any manner to any person, except as may be necessary in the performance of the contract. In addition, all related output shall be given the same level of protection as

required for the source material.

- C. The contractor will certify that the Michigan tax returns or tax return information processed during the performance of the contract will be completely purged from all data storage components of the contractor's computer facility, and no output will be retained by the contractor at the time the work is completed. If immediate purging of all data storage components is not possible, the contractor will certify that any Michigan tax return information remaining in any storage component will be safeguarded to prevent unauthorized disclosures until purging can be completed.
- D. Destruction of Michigan tax returns or tax return information, including any spoilage or any intermediate hard copy printout which may result during the processing of Michigan tax return information, will be documented with a statement containing the date of destruction, description of material destroyed, and the method used. Destruction parameters must meet the standards of Section X of this Agreement.
- E. Computer system security and physical security of tax data stored and processed by the contractor must be in compliance with security guidelines and standards established by the Michigan Department of Treasury. See Section VI of this Agreement.
- F. The contractor will be responsible for maintaining a list of employees authorized to access Michigan tax returns or tax return information and shall provide a copy of such list to the State's Indian Affairs Specialist.

X. DISPOSAL OF TAX INFORMATION

Materials furnished to Treasury, such as copies of tax returns, computer printouts, carbon paper, notes, memorandums, and work papers will be destroyed by burning, mulching, pulping or shredding. If shredded, strips will not be more than 5/16-inch width, microfilm should be shredded to effect a 1/35-inch by 3/8-inch strip, and pulping should reduce material to particles of one inch or smaller.

The Tribe shall retain all Michigan tax returns or tax return information received from Treasury only for the period of time required for any processing relating to the official duties and then will destroy the records in accordance with the above paragraph. Any Michigan tax returns or tax return information that must be kept to meet evidentiary requirements must be kept in a secured locked area and properly labeled as confidential return information. See Section VI of this Agreement for more details.

XI. SECURITY RESPONSIBILITY

The Tribe or its agents (contractors or vendors) accept the responsibility for keeping Michigan tax returns and tax return information confidential.

Within thirty days of the date of this Agreement, the Tribe shall forward to the State's Indian Affairs Specialist a list of persons authorized to request and receive information from Treasury and shall update the list at the beginning of the year, or as necessary.

XII. EFFECTIVE DATE

This Agreement will become effective upon signing of this Agreement by the legal representatives of both Parties to this Agreement. It is further agreed that this Agreement shall remain in full force and effect during the term of the Tax Agreement. Should this Agreement be terminated, all Michigan tax returns or tax return information in the possession of the Tribe that has been obtained from Treasury shall be disposed of immediately in accordance with the provision of Section X of this Agreement. Notwithstanding the termination of the Tax Agreement, the Tribal obligation to keep Michigan tax returns and tax return information received from Treasury confidential shall be continuing. This Agreement shall be reviewed annually by each Party, and may be modified at that time by a written memorandum that satisfies both parties.

APPROVED

11/11/2010
Date

Walter A. Fratzke
Walter A. Fratzke
Tribal Affairs Specialist
Michigan Department of Treasury

APPROVED

11-9-10
Date

Dennis V. Kequom Sr.
Dennis V. Kequom Sr.
Tribal Chief
Saginaw Chippewa Indian Tribe of Michigan