

State Notes

TOPICS OF LEGISLATIVE INTEREST

July/August 2004



A Brief History of the Michigan Casino Gaming Tax **By David Zin, Economist**

In November 1996, 51.5% of Michigan voters approved Proposal E, which effectively authorized the licensing and operation of three casinos within the City of Detroit. Proposal E (1996 Initiated Law) enacted the Michigan Gaming Control and Revenue Act (MCL 432.201 et seq). Included in Proposal E were provisions for a tax on receipts any casinos might receive. The provisions were later modified by Public Act 69 of 1997, which substantially rewrote the Michigan Gaming Control and Revenue Act. Those provisions recently were modified again with the enactment of Public Act (P.A.) 306 of 2004 (House Bill 4612).

Under Proposal E, the State levied an 18% tax on the gross revenue received by a casino licensee. Gross revenue was defined as the total of all cash received as winnings, cash received in payment for credit extended by the casino to a patron for gaming purposes, and compensation received for conducting games in which the casino licensee was not party to a wager. Proposal E then distributed the revenue from the tax, with the State School Aid Fund receiving 45% of the revenue and the remaining 55% going to Detroit for use in connection with public safety, economic development programs, antigang and youth development programs, and other programs designed to improve the quality of life in the city.

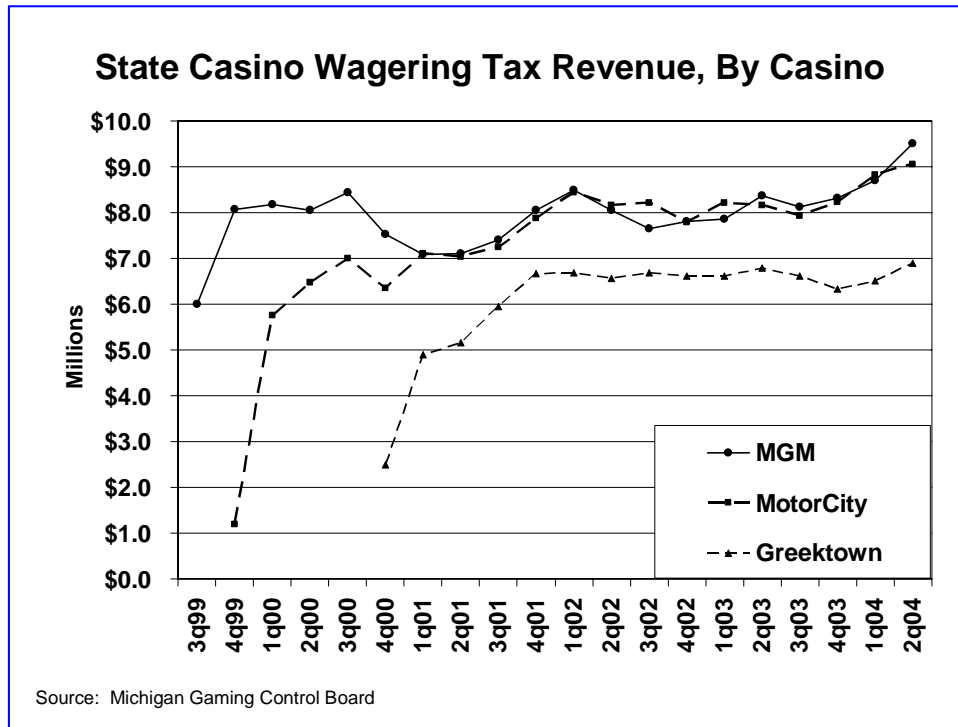
Public Act 69 of 1997 changed the tax base to adjusted gross receipts, which was defined as the total of all sums received by a casino licensee from gaming less any winnings paid to wagerers. The Act also allowed the City of Detroit to impose its own wagering tax, or similar revenue-generating mechanism, at a 9.9% rate. If the Detroit wagering tax were enacted, which would require the approval of Detroit voters, then the State's tax rate would drop to 8.1% and all of the revenue would be deposited into the School Aid Fund. Detroit voters approved the new tax on November 4, 1997.

The Gaming Control and Revenue Act also provides for a number of other fees for the casinos to pay. Fees and taxes are paid to both the State and the City of Detroit. In addition to the 8.1% State wagering tax, each casino pays an annual licensing fee of \$25,000 and an annual State Services Fee equal to one-third of \$25.0 million, which is adjusted each year for inflation. Each casino also paid the State a one-time application fee of \$50,000. The City of Detroit also receives an annual municipal services fee of \$4.0 million from each casino.

The first commercial casino license granted under the law was issued July 28, 1999, to the MGM Grand Detroit, LLC, doing business as the MGM Grand Detroit Casino. On December 14, 1999, another license was issued to Detroit Entertainment, LLC, doing business as MotorCity Casino. The last license was issued November 8, 2000, to Greektown Casino, LLC, doing business as Greektown Casino. State gaming tax revenue received from each casino is illustrated in [Figure 1](#).



Figure 1



The tax and fee structure for the Detroit casinos remained unchanged from 1997 until August 2004. In August 2004, P.A. 306 of 2004 made several changes to the taxes levied on the casinos, effective September 1, 2004. The key provisions of P.A. 306 of 2004:

- Impose an additional gaming tax on a casino's adjusted gross receipts.
- Distribute revenue from the additional tax to the City of Detroit, the State General Fund, and the Michigan Agriculture Equine Industry Development Fund.
- Increase the additional tax on any casino licensee that is not fully operational by certain dates.
- Reduce a casino's additional tax to 1%, and allocate it entirely to the City of Detroit, if the Gaming Control Board finds that the casino is fully operational and in compliance with its development agreement for at least 30 consecutive days.
- Eliminate the Act's additional taxes and allow the casinos to simulcast horse races if the Lottery Act is amended to allow the operation of video lottery at horse racetracks and video lottery is being conducted.

The Act provides for a number of circumstances that control the administration of the tax and how the revenue is to be divided. Although not described this way in the Act, it effectively creates two additional taxes: an additional State wagering tax and an additional Detroit wagering tax. The additional State tax is imposed at a rate of 4% and 1/8 of the revenue will be allocated to the Michigan Agriculture Equine Industry Development Fund while the State



General Fund will receive the remaining 7/8 of the revenue. As discussed below, casinos will no longer be obligated to pay this portion of the tax once the permanent casinos are fully operational or if and when video lottery is operational at Michigan horse racetracks.

For the portion of the tax that is effectively an additional Detroit wagering tax, the City of Detroit will receive all of the revenue and it must be used for the same purposes as authorized for revenue under the pre-existing 9.9% wagering tax. The tax rate for the effective additional Detroit wagering tax depends upon whether or not a given casino is certified to be fully operational. Public Act 306 of 2004 defines “fully operational” to mean that the casino is operating at its permanent location and has a 400 or more room hotel with a valid certificate of occupancy. Until July 1, 2009, the effective additional Detroit wagering tax rate on that casino is 2.0%. If a casino is not fully operational by July 1, 2009, the effective additional Detroit wagering tax on that casino will be increased from 2% to 3%. If a casino is not fully operational by July 1, 2010, the effective additional tax will be increased to 4%, and if the casino is still not fully operational by July 1, 2011, the effective additional tax will be increased again, to 5%. Once a casino is certified to be fully operational, the additional tax will be lowered to 1% and allocated entirely to the City of Detroit.

Public Act 306 of 2004 also provides that if the Lottery Act is amended to allow video lottery to be operated at horse racetracks in Michigan, and video lottery is operational, casinos no longer will be obligated to pay any additional tax imposed by the Act. In addition, if and when video lottery is operational, casinos will be allowed to become authorized to simulcast horse races. Should a casino begin to simulcast horse racing, those operations will be regulated by both the Horse Racing Commissioner and the Michigan Gaming Control Board. Furthermore, the casino will be entitled to the identical commissions, taxes, fees, and deductions associated with simulcast wagering at horse racetracks.

Both State General Fund and City of Detroit revenues will increase as a result of P.A. 306 of 2004. Assuming that no casinos begin operating permanent facilities during either fiscal year (FY) 2003-04 or FY 2004-05 and that video lottery is not yet being conducted in Michigan, in FY 2003-04 the Act will increase State General Fund revenue by approximately \$3.6 million, State Agriculture Equine Industry Development Fund revenue by \$0.5 million, and City of Detroit revenue by \$2.1 million. Under the same assumptions, in FY 2004-05 the Act will increase State General Fund revenue by \$42.9 million, State Agriculture Equine Industry Development Fund revenue by \$6.1 million, and City of Detroit revenue by \$24.5 million, as shown in Figure 2.

It is unknown when the permanent casinos will begin operation, although current estimates suggest that the earliest any will be operational will be during 2006 or 2007. Similarly, it is unknown if and when video lottery terminals will become operational. Should video lottery become operational and casino licensees begin offering simulcast racing, current law requires that revenue from simulcast wagering be deposited in the Michigan Agriculture Equine Industry Development Fund, which distributes revenue to community fairs and racing industry program grants.



Figure 2

