

**TITLE 4  
BUDGET & FINANCIAL OPERATIONS**

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**Chapter 1 - Appropriations Act**

**§ 101 - Purpose**

The purpose of this Act is to implement a method for preparing and adopting a budget for Tribal Governmental Operations and Programs. This Act hereby supersedes all previous and prior Appropriations and Budget acts, resolutions or ordinances.

History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.

**§ 102 - Definitions**

For purposes of this Act:

- (a) **Appropriation.** Action by the Tribal Council that permits Tribal agencies to incur obligations and to make payments out of the Tribal General Fund, Housing Fund, or Enterprise Fund(s) for specified purposes.
- (b) **Borrowing Authority.** Delegated Tribal Council authority in substantive or appropriation action of the Tribal Council that permits a Tribal subdivision to incur obligation and to liquidate those obligations out of borrowed moneys.
- (c) **Budget Authority.** A general term referring to various forms of authority provided by Tribal law to enter into obligations which will result in immediate or future outlays of Tribal governmental funds.
- (d) **Chief Executive.** The Chief Executive of the Grand Traverse Band is the Chairman of the Tribal Council.
- (e) **Contract Authority.** A form of budget authority which permits contracts or other obligations to be entered into in advance of an appropriation or in excess of amounts otherwise available.
- (f) **CPI.** Consumer Price Index, a federal government economic indicator used to determine the cost of living for any particular year expressed as a percentage of increase over the previous year.

- (g) Executive Budget. A balanced budget prepared by Tribal Manager for coming fiscal year with assistance of appropriate Tribal administrative staff.
- (h) Fiscal Year. The time period designated by the Tribal Council for budgeting and accounting purposes.
- (i) GTB. Grand Traverse Band of Ottawa and Chippewa Indians.
- (j) Tribal Agency. Includes any Tribal Department, housing program, enterprise, commission or committee authorized by the Tribal government.
- (k) Tribal Governmental Operations. Tribal Council, Tribal Judiciary.
- (l) Tribal Governmental Programs. Various Tribal, state and federal assistance programs providing health, education and welfare services to Tribal members, administered by the GTB.

History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Act #00-18.837, enacted by Tribal Council in Special Session March 29, 2000; as amended by Tribal Council January 17, 2001.

### **§ 103 - Fiscal Year**

The fiscal year shall be October 1 to September 30.

History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.

### **§ 104 - Budget Formulation and Transmittal**

- (a) The Tribal Manager shall prepare a balanced executive budget for the coming fiscal year and shall submit the balanced executive budget to the Tribal Council by February 28.
- (b) Formulation of the executive budget shall consist of the following steps:
  - (1) The Tribal Manager shall review current Tribal programs against program objectives and program results;
  - (2) In consultation with the GTB Economic Development Corporation, the Tribal Manager and Chief Financial Officer (CFO) shall estimate the expected income from Tribal gaming operations for purposes of the Revenue Allocation Ordinance No. 94-117, as amended;
  - (3) The Tribal Manager shall prepare a summary of Tribal priorities and objectives as articulated by the Departments of the Tribe, authorized Tribal committees, housing services and enterprises operated by the Tribe;

- (4) The CFO shall review previous appropriation actions of the Tribal Council in conjunction with existing directives of the Tribal Council regarding the Tribal development plans or plans for the delivery of governmental services.

History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Act #00-18.837, enacted by Tribal Council in Special Session on March 29, 2000; as amended by Tribal Council January 17, 2001.

### **§ 105 - Composition of the Budget**

The executive budget shall consist of the following subsections:

- (a) Tribal Council Support. Permanent appropriation which once made is always available for specific purposes and does not require repeat action by the Tribal Council to authorize its use. Additional funding may be appropriated in subsequent years on an annual basis to meet increased needs.
- (b) Tribal Judiciary Support. Permanent appropriation of \$505,421 as base funding which once established is available for judicial purposes and does not require repeat action in subsequent budget years by the Tribal Council to authorize its use. Additional funding may be appropriated in subsequent years on an annual basis to meet increased needs.
- (c) Tribal Governmental Support. Indefinite appropriation; an appropriation of an unspecified amount of money. An indefinite appropriation may appropriate all or part of the receipts from certain sources, the specific amount of which is determinable only at some future date, or it may appropriate “such sums as may be necessary” for a given purpose.
- (d) Tribal Programs. Indefinite appropriation; an appropriation of an unspecified amount of money. An indefinite appropriation may appropriate all or part of the receipts from certain sources, the specific amount of which is determinable only at some future date, or it may appropriate “such sums as may be necessary” for a given purpose.

History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.

### **§ 106 - Presentation and Approval of Proposed Executive Budget**

- (a) A proposed balanced executive budget shall be presented to the Tribal Council by February 28.
- (b) Public Hearings. The Tribal Council shall conduct three (3) public hearings on the proposed budget between February 28 and May 31.
- (c) Reconciliation of Program Requests with Available Funding. Based on the three (3) public hearings and records, the Tribal Council will reconcile the proposed executive budget and subsequent budget requests with available funding based on the policy process of deliberation.

History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.

### **§ 107 - Tribal Budget Execution and Control**

- (a) The final fiscal year budget shall be approved and adopted by the Tribal Council during the month of August.
- (b) **Balanced Budget.** The budget for the government of the GTB shall be balanced. Programs and budgeted items shall be subject to funding availability. Surplus funds at the end of the year may be carried forward for reallocation in the next fiscal year.
- (c) **Mid-Year Review of Budget by Tribal Council.** The Tribal Council shall review indefinite appropriations of the budget at mid-year and reallocate funds appropriations based on the recommendations of the Tribal Manager based on the Tribal Manager's consultation with appropriate Tribal administrative staff.
- (d) **Contract Authority.** The Tribal Chair and the Tribal Manager shall recommend to the Tribal Council, based on a review of Tribal priorities, contracts that the Tribal Departments, housing programs, enterprise fund, commission or committee should enter into for the upcoming fiscal year.
- (e) **Emergency Allocations.** The Tribal Council shall have the right to make emergency appropriations, allocations or re-allocations of funds as needed and to borrow money to cover such appropriations, allocations or re-allocations if necessary.
- (f) **Modifications.** All modifications to approved budgets exceeding five (5%) percent need the approval of the Tribal Council.
  - (1) Line item modifications within an approved budget which do not alter the budgeted total by more than five (5%) percent must be approved by the Tribal Manager.
  - (2) Any change in the scope of a program must be approved by the Tribal Council.

History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Act #00-18.837, enacted by Tribal Council in Special Session on March 29, 2000; as amended by Tribal Council January 17, 2001.

### **§ 108 - Unexpended Balances**

- (a) **Annual Carry-Over Process.** Funds remaining within the Indian Health Service and Bureau of Indian Affairs budget will be analyzed by the Tribal Manager. The Tribal Manager, with input from appropriate Tribal administrative staff, will present recommendations to the Tribal Council for approval.

- (b) Approval for Carry-Over of RAO Funds. Funds remaining within the Tribal Revenue Allocation Ordinance (RAO) shall be analyzed by the Tribal Manager and CFO and recommendations shall be made to the Tribal Council for approval.
- (c) Grants, compacts, and contracts are subject to their own carry-over federal regulations.
- (d) The recommendations of the Tribal Manager regarding carry-over requests will be presented to the Tribal Council in accordance with Section 107(c) of this Act.
- (e) Time extension. Extension of time in program time periods by the Tribal Council shall only be considered under unusual and rare circumstances based on recommendations from the Tribal Manager and CFO.

History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.

### **§ 109 - Audit and Review**

- (a) Every Tribal Department, housing program, enterprise fund, commission or committee has the initial and fundamental responsibility to assure that its application of public funds adheres to the terms of the pertinent authorization as well as relevant Tribal, federal or state statutory provisions.
- (b) The Chief Financial Officer or his/her designee has the authority to review whether the applicable accounting and internal controls, including an internal audit function, is appropriate and functioning for the Tribal Department, housing program, enterprises fund, commission or committee.
- (c) The CFO and Tribal Manager shall assure that the preparation of an audit of financial statements of the various Tribal Departments, housing program, enterprise fund, commission or committee is prepared in a timely manner in compliance with applicable federal, state, or Tribal regulations.
- (d) The Tribal Manager in consultation with the Tribal Council shall establish an autonomous review function to examine the financial, management and program activities of Tribal Departments, housing programs, enterprise funds, commission or committee and to evaluate the efficiency, effectiveness, and economy of the agency's operation. Findings and recommendations are transmitted to the appropriate agency and the Tribal Council.

History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Act #00-18.837, enacted by Tribal Council in Special Session on March 29, 2000; as amended by Tribal Council January 17, 2001.

### **§ 110 - Effective Date**

The effective date of this Act is November 15, 2000, and supersedes all prior budget and appropriations acts, ordinances, or resolutions.

History: Appropriations Act, adopted by Tribal Council on August 21, 1996, affirmed on September 6, 1996; as amended by Tribal Council October 15, 1996; as amended by Tribal Council January 17, 2001.

### **Chapter 2 - (Reserved)**

History: Former Ch. 2, Budget Act (comprised of 4 GTBC §§ 201 through 213), derived from Tribal Act #95-13.289(2), enacted by Tribal Council on November 6, 1995, was repealed by the Appropriations Act of 1996 (which is included in Ch. 1 of this Title), pursuant to an amendment enacted by Tribal Council January 17, 2001.

### **Chapter 3 - Audits**

#### **§ 301 - Tribal Manager Responsibilities for Audit Recommendations**

The Tribal Manager of the Tribe is henceforth directed to provide for Tribal Council, within appropriate time of auditor submission of recommendations and findings, resolution of same.

History: Tribal Act #84-205, enacted by Tribal Council on March 8, 1984.

### **Chapter 4 - Internal Revenue Service Ordinance**

#### **§ 401 - Limitation; Reservation of Rights**

- (a) Sections 403 through 405 of this ordinance will apply only to Indian lands whether held in trust or fee status, located within the exterior boundaries of the Grand Traverse Band Reservation as defined by Article I, Section 2(b) of the Grand Traverse Band's federally approved constitution.
- (b) Nothing contained in this ordinance shall be construed as a relinquishment of Tribal sovereignty over lands located within the exterior boundaries of the Grand Traverse Band Reservation as defined by Article I, Section 2(b), of the Tribal Constitution.
- (c) The Tribal Council expressly reserves the right to exercise Tribal sovereignty over all non-Indian lands located within the boundaries of the Grand Traverse Band Reservation, as defined by Article I, Section 2(b) of the Tribal Constitution, to the extent permitted by federal law, the Tribal Constitution and Bylaws, and the Tribe's federal charter.
- (d) Definitions:
  - (1) "Agreement Area" means the area designated as such in the Tax Agreement.

- (2) “Tax Agreement” means the agreement between the State of Michigan and the Grand Traverse Band of Ottawa and Chippewa Indians entered into on [date].
- (3) “Indian Country” means those lands considered “Indian Country” under federal law.
- (4) “Resident GTB Member” means a GTB Member whose principal place of residence is located within the Agreement Area.
- (5) “Taxable Sale” means a sale that is not exempt under Michigan law as modified by the Tax Agreement.
- (6) “Tribal and Trust Lands” means land held in trust by the federal government for the benefit of the Tribe and fee lands owned by the Tribe that is listed in the Tax Agreement as Tribal and Trust Land.
- (7) “Tribal Entity” means a business entity, other than a single Resident GTB Member or an entity wholly owned by the Band, that is wholly owned by any combination of the Band and Resident GTB Members, or is wholly owned by Resident GTB Members.
- (8) “State” means the State of Michigan.

History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.

#### **§ 402 - Establishment of Tribal Revenue Department**

- (a) There is hereby established a Tribal Revenue Department, which shall be responsible for collecting all business permit fees and income taxes imposed by the Tribal Council under this ordinance.
- (b) The Tribal Revenue Department shall also be responsible for collecting all other taxes, permit fees, licenses fees and penalties imposed by other ordinances adopted by the Tribal Council.
- (c) All taxes, permit fees, license fees, penalties or other revenues received by the Grand Traverse Band Revenue Department shall be deposited by the Tribal Treasurer in the General Fund of the Grand Traverse Band and shall be expended for public purposes only as the Tribal Council may (by resolution) direct.
- (d) The Tribal Revenue Department shall employ a Director consistent with the Tribe’s wage grid personnel manual. The Director, and all staff employed by the Tribal Revenue Department, shall be under the direct supervision of the Tribal Treasurer and shall perform such duties and responsibilities contained in their job descriptions.

History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.

**§ 403 - Business Permits Required to Engage in Business on Reservation**

- (a) All persons or entities doing business on the Grand Traverse Band Reservation shall purchase a business permit prior to engaging in business on the reservation. All business permits shall have a duration of one (1) year, and may be renewed on a year-to-year basis. In order to qualify for any benefits any exemptions articulated in the Tax Agreement, Tribal Entities doing business within the Agreement Area must purchase a business permit. As a condition of citizenship in the Grand Traverse Band and as a condition for the privilege of doing business on the Reservation or within the Agreement Area, GTB Members and GTB Member-owned businesses consent to the terms and conditions of the Tax Agreement.
- (b) Fee Schedule For Business Permits. The following fee schedule is hereby established for all business permits:
- (1) Tribal members and businesses owned by Tribal members doing business on the reservation: five dollars (\$5.).
  - (2) Non-Indians and non-member Indians, and corporate businesses owned by non-Indians and non-member Indians, doing business on the reservation:
    - (A) Class A Permit: Any person or corporate business owned by a non-Indian or non-member Indian doing business on the reservation (except peddlers): one hundred and fifty dollars (\$150.).
    - (B) Class B Permit: For seasonal peddlers (those doing business for three (3) consecutive months or less): one hundred dollars (\$100.).
    - (C) Class C Permit: Daily peddlers (those doing business for ten (10) consecutive days or less): fifty dollars (\$50.).

History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.

**§ 403A - Registration with State of Michigan Department of Treasury**

In order to qualify for the benefits of the Tax Agreement, GTB Members and Tribal Entities must register with the State of Michigan Department of Treasury and obtain such licenses and registrations as would be required under State law if such GTB Members or Tribal Entities were operating outside of Indian Country.

History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.



**§ 404 - Income Tax Imposed on Non-Indians and Non-Tribal Members, and Corporate Businesses Owned by Non-Indians and Non-Tribal Members, from Gross Income Earned on the Reservation**

There is hereby imposed the following income taxes on the gross income earned on the reservation by non-Indians and/or non-member Indians, or corporate businesses owned by non-Indians and/or non-member Indians, doing business on the Grand Traverse Band Reservation:

- (a) One percent (1%) of the gross income of all persons or corporate entities earning \$50,000 or less on the reservation each calendar year.
- (b) Two percent (2%) of the gross income of all persons or corporate entities earning \$50,000 to \$150,000 on the reservation each calendar year.
- (c) Three percent (3%) of the gross income of all persons or corporate entities earning \$150,000 to \$250,000 on the reservation each calendar year.
- (d) Four percent (4%) of the gross income of all persons or corporate entities earning \$250,000 to \$500,000 on the reservation each calendar year.
- (e) Five percent (5%) of the gross income of all persons or corporate entities earning \$500,000 to \$1,000,000 on the reservation each calendar year.
- (f) Eight percent (8%) of the gross income of all persons or corporate entities earning \$1,000,000 to \$2,000,000 or more on the reservation each calendar year.
- (g) Ten percent (10%) of the gross income of all persons or corporate entities earning \$2,000,000 or more on the reservation each calendar year.

History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.

**§ 405 - Tribal Members and Non-member Officials Exempt from Gross Income Taxes**

- (a) No income tax shall be imposed on Tribal members, or corporate businesses owned by Tribal members, for income earned on the Grand Traverse Band Reservation.
- (b) The income of all non-Indians or non-member Indians holding a public office within the Grand Traverse Band shall also be exempt from the income taxes imposed by § 404 of this ordinance.

History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.

**§ 406 - Payment and Collection of Permit Fees and Gross Income Taxes and Refunds for Overpayment**

- (a) The Tribal Revenue Department shall adopt rules and regulations that establish procedures for the payment of permit fees and gross income taxes to the Tribe, and the collection of delinquent permit fees and gross income taxes by the Tribe.
  - (1) The Tribal Revenue Department shall have the authority to adopt forms necessary for the payment or collection of all permit fees and gross income taxes imposed by this ordinance, and to perform all other duties and responsibilities necessary to implement this ordinance.
  - (2) All rules and regulations promulgated by the Tribal Revenue Department shall be published in at least two (2) local newspapers of general circulation for not less than two (2) consecutive weeks, and shall allow for public comment and input before they become final.
- (b) If it shall appear subsequent to the receipt of gross income tax proceeds by the Tribal Revenue Department that an amount of tax, penalty or interest has been paid which was not due under the provisions of this ordinance, whether a mistake of fact or law, then such amount shall be credited against any tax due, or to become due under this ordinance from the person or corporation who made the overpayment, or such amount shall be refunded to such person or corporation by the Tribal Treasurer, provided, that a claim for a refund shall be filed with the Tribal Revenue Department within two (2) years of the collection of the overpayment or such claim shall be forever barred.

History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.

**§ 407 - Sales Tax**

- (a) There is hereby imposed a six percent (6%) sales tax on all taxable sales within the exterior boundaries of the Grand Traverse Band Reservation or the Agreement Area as defined by the Tax Agreement provided that the retail sales are made by a business entity that is operated by the Tribe or by a Tribal Entity or by a business owned by a GTB Member.
- (b) This sales tax shall not apply to sales of motor fuels to wholly owned vehicles of the GTB providing essential governmental services consistent with the provisions of 26 U.S.C. § 7871. For purposes of this subsection, GTB deems the activities of the GTB/EDC, authorized by 25 U.S.C. § 477, as an essential government service based on the 100% Tribal tax on GTB/EDC under 25 U.S.C. § 2710(b)(3) (implementing regulations 25 CFR 290), and the specific approval of the GTB RAO (codified herein at 18 GTBC § 1601 et seq., Chapter 16, Revenue Allocation Ordinance) by the Secretary of the Interior on June 1, 2000.

History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act. #01-19.1015, enacted by Tribal Council via telephone poll on June 21, 2001; and by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.

### **§ 408 - Implementation of Tax Agreement Between GTB and State of Michigan**

- (a) Purpose. The purpose of this section is to implement the Tax Agreement entered into by the Grand Traverse Band of Ottawa and Chippewa Indians and the State of Michigan.
- (b) GTB Sales Tax Revenue Sharing. The Tribe must share the sales tax collected in accordance with this Ordinance as follows:
  - (1) On the first \$5,000,000 of annual gross receipts from Taxable Sales, 2/3 of the tax collected shall be retained by the Tribe and 1/3 paid to the State (but not to exceed the amount payable to the State if the State tax rate were applied).
  - (2) On annual gross receipts from Taxable Sales in excess of \$5,000,000, 1/2 of the tax collected shall be retained by the Tribe and 1/2 paid to the State (but not to exceed the amount payable to the State if the State tax rate were applied).

The Band must, no later than 45 days after the close of each quarter, compile the sales tax information received during the quarter and send a check to the State together with a schedule showing the calculation of the amount paid to the Band in accordance with the Tax Agreement. The Tribe must pay interest at the statutory rate provided under State law for refunds not paid as of the 45th day following the end of the calendar quarter.
- (c) Collection, Remittance and Sharing of Sales and Use Taxes Outside of Tribal and Trust Lands. The Band, GTB Members and Tribal Entities operating as retailers anywhere in the State of Michigan outside of Tribal and Trust Lands must collect and remit sales tax and use tax to the State in accordance with State procedures generally applicable to retail sellers.
- (d) Motor Fuels
  - (1) GTB Member and Tribal Entity retailers may only purchase tax-exempt motor fuel from wholesalers selected by the Band. GTB Member and Tribal Entity retailers must prepay all taxes on motor fuel purchases except for quota exempt purchases authorized by the Band.
  - (2) All motor fuel acquired for resale in excess of the quota must be purchased in accordance with State law from any State licensed wholesaler with State motor fuel taxes prepaid. All retail sales of such motor fuel must include the tax in the retail price.
- (e) Tobacco Products

- (1) GTB Member and Tribal Entity retailers may only purchase tax-exempt tobacco products from wholesalers selected by the Band. GTB Member and Tribal Entity retailers must prepay all taxes on tobacco products purchases except for quota exempt purchases authorized by the Band.
  - (2) All tobacco products acquired for resale in excess of the quota must be purchased in accordance with State law from any State licensed wholesaler with State tobacco products taxes prepaid. All retail sales of such tobacco products must include the tax in the retail price.
- (f) Tribal Reporting
- (1) GTB Member and Tribal Entity employers located within the Agreement Area will withhold and remit to the State income tax from all employees who are not Resident Tribal Members.
  - (2) Consistent with State law, the Band, GTB Members, and Tribal Entities must maintain records (including retention of necessary original receipts) sufficient to substantiate claims for exemption from tax under the Tax Agreement.
  - (3) GTB Member and Tribal Entity retailers must maintain records regarding sales that are not Taxable Sales under the Tax Agreement.
  - (4) With respect to sales on which no tax was collected as provided for in the Tax Agreement, GTB Member and Tribal Entity retailers must maintain a record of such sales including the date, the name and Tribal identification number of the purchaser, the amount, and for any item of more than fifty dollars (\$50.) or sales of more than two hundred dollars (\$200.) in the aggregate, the identification of the items purchased and any other data sufficient to document the exemption. This section does not apply to sales of motor fuel.
- (g) Administration of Tribal Certificates of Exemption
- (1) Issuance of Tribal Certificates of Exemption. A Resident Tribal Member or Tribal Entity must submit to the Tribe a signed Resident Tribal Member/Tribal Entity Claim indicating the requester's name, address, items to be purchased (including identification numbers for vehicles and mobile homes) and, in the case of a Resident Tribal Member, his or her identification number and a certification that the Resident Tribal Member resides within the Agreement Area. In those instances where the claim is made under § III(A)(3) of the Tax Agreement, a signed statement from the contractor stating the location at which materials will be affixed to real estate, the date that the work is to be done, and an estimate as to the amount to be paid for materials must also be submitted to the Tribe by the Resident Tribal Member of Tribal Entity seeking authorization. Upon verifying the information provided in the claim and determining that the claim is consistent with the terms of this Agreement, an authorized Tribal representative must complete and sign a Tribal Certificate of Exemption authorizing the Resident Tribal Member's or Tribal Entity's exempt purchase. The certificate must indicate the name of the requester,

the items to be purchased including identification numbers for vehicles and mobile homes and, for Resident Tribal Members, the Resident Tribal Member's identification number.

- (2) Use of Tribal Certificates of Exemption. If a Tribal Certificate of Exemption is issued to a Resident Tribal Member or Tribal Entity, the Resident Tribal Member or Tribal Entity must present the Certificate (together with the Letter of Authorization) to the vendor or contractor at the point of purchase. In those instances where the claim is made for purchase of material affixed to real property by a contractor under § III(A)(3) of the Tax Agreement, the Resident Tribal Member or Tribal Entity must also submit a signed statement from the contractor stating the location at which materials will be affixed to real property, the date that the work is to be done, and an estimate as to the amount to be paid for materials.
  - (3) Retention of Records. The Resident Tribal Member or Tribal Entity must maintain a copy of all Tribal Certificates of Exemption used.
- (h) Enforcement
- (1) Enforcement Action Against Non-Tribal Members in Indian Country. In accordance with the Tax Agreement, the State may exercise its tax enforcement authority under State law with respect to a Non-Tribal Member or non-Tribal Entity located or doing business within Indian Country provided, however, that where the Non-Tribal Member or non-Tribal Entity is located or doing business on trust lands, the State must, before taking any enforcement action that requires entry upon such lands, provide notice of the proposed enforcement action to the Tribal police. Upon receipt of such notice, the Tribal police may direct one or more officers to accompany the State officers during the enforcement activity. If the Tribal police or public safety department is unable or unwilling to promptly assign a Tribal officer to accompany the State officers the State officers may, nonetheless, carry out the proposed enforcement action against the Non-Tribal Member or non-Tribal Entity without the participation of a Tribal officer.
  - (2) Enforcement Action Against GTB Members and Tribal Entities
    - (A) Notice of Audit. In accordance with the Tax Agreement, the State has the authority to conduct audits of GTB Members residing within Indian Country and Tribal Entities whose principal place of business is located within Indian Country with respect to taxes that are the subject of the Tax Agreement. Prior to conducting any such audit, the State must provide the Tribal Member or Tribal Entity with at least thirty (30) days advance written notice. The notice must include a statement of the business or entity to be audited, the tax(es) involved in the audit, and the taxable period(s) at issue. Audits of GTB Members who reside outside of Indian Country and Tribal Entities whose principal place of business is located outside of Indian Country will be conducted in accordance with State law.

- (B) Enforcement of State Judicial Orders Outside of Indian Country. In accordance with the Tax Agreement, the State may exercise its enforcement authority under State law with respect to the property of a GTB Member or Tribal Entity where the property is located outside of Indian Country. Further, the State may exercise its enforcement authority under State law with respect to a Tribal Member or Tribal Entity whose person is located outside of Indian Country.
- (C) Enforcement of State Judicial Orders Within Indian Country. In any case where the State has obtained a State Court judgment or order affecting the person or property of a GTB Member or Tribal Entity located within Indian Country, the State may petition the Tribal Court to grant recognition and enforcement of the State court order or judgment. The Tribal Court must, within 14 business days, rule on the petition using the same standards as contained in Michigan Court Rule 2.615. If the Tribal Court grants the petition, the Tribal Court, upon request of the State, must promptly direct one (1) or more Tribal police or public safety officers to enforce the judgment or order in the presence of and with the assistance of one (1) or more State enforcement officers.
- (D) State Exercise of Non-Judicial Enforcement Actions Outside of Indian Country. In accordance with the Tax Agreement, the State may exercise its tax enforcement authority under State law, with respect to the property of a GTB Member or Tribal Entity where the property is located outside of Indian Country. Further, the State may exercise its tax enforcement authority under State law with respect to a GTB Member or Tribal Entity located outside of Indian Country.
- (E) State Exercise of Non Judicial Enforcement Actions Within Indian Country. In accordance with the Tax Agreement, in any case where the State is authorized by State law to compel the production of books and records, to compel the appearance or testimony of an individual, or to undertake an audit where the enforcement action affects a GTB Member or Tribal Entity whose person or property is located within Indian Country, and the taxpayer has failed or refused to comply with the requested State enforcement action, the State may petition the Tribal Court for an order compelling compliance with that enforcement action. The Tribal Court must conduct a hearing on the petition within 10 business days following service by the State on the taxpayer, and must issue its decision within 14 business days of such service on the taxpayer. If the Tribal Court determines that (i) the taxpayer is a Tribal Member or Tribal Entity, (ii) the taxpayer and/or property is located within the Band's Indian Country, (iii) the proposed State tax enforcement action pertains to one or more of the taxes that is the subject of the Tax Agreement, and (iv) the proposed State tax enforcement action is consistent with relevant State law and procedures and with the Tax Agreement, the Tribal Court must grant the petition and must order the taxpayer to comply. In the event that the GTB Member or Tribal Entity fails or refuses to comply with the Tribal Court order, the Tribal Court must promptly direct one or

more Tribal police officers to enforce the order with the assistance of one or more State enforcement officers.

- (F) State Exercise of Non-Judicial Enforcement Actions Where the Location of Indian Country is in Dispute. In accordance with the Tax Agreement, in any case where the State is authorized by State law to compel the production of books and records, to compel the appearance or testimony of an individual, or to undertake an audit where the enforcement action affects the person or property of a GTB Member or Tribal Entity and there is disagreement between the Band and the State regarding whether the taxpayer or property is located within Indian Country, the State may elect to proceed based upon the assumption that the taxpayer or property is within its enforcement authority under State law. If the taxpayer fails or refuses to comply with the requested State enforcement action, and the taxpayer asserts that the taxpayer or property is located within Indian Country and the State and the Band stipulate that there is a dispute regarding whether the taxpayer or property is located within Indian Country, the State may petition the Tribal Court for an order compelling compliance with the enforcement action. The Tribal Court, for purposes of this Ordinance only, and for no other precedential purpose, must treat the location of the taxpayer or property as being within Indian Country and must follow the standards and procedures set forth in § 408(g)(2)(E) above. In the event that the GTB Member or Tribal Entity fails or refuses to comply with the Tribal Court order, the Tribal Court must promptly direct one or more Tribal police officers to enforce the order with the assistance of one or more State enforcement officers.
- (G) State Tax Enforcement Actions Outside of Indian Country Prior to a Hearing. In accordance with the Tax Agreement, the State may exercise its authority under State law to seize or inspect property without a prior order or hearing, where the taxpayer is a GTB Member or Tribal Entity whose affected property is located outside of Indian Country.
- (H) State Tax Enforcement Actions Within Indian Country Prior to a Hearing. In accordance with the Tax Agreement, in any case where the State is authorized by the Revenue Act, the Tobacco Products Act, or the Motor Fuel Tax Act, to seize real or tangible personal property or inspect such property without a prior order or hearing, and where the taxpayer is a GTB Member or Tribal Entity and the property is located within Indian Country, the Band and the State must jointly execute such action. In such cases, the enforcement action may be taken without first filing a petition in Tribal Court provided that the State gives notice of the need for the proposed action by the Tribal police department. Such notice must specify the grounds for the enforcement action, and the appropriate statutory or regulatory authority for such action. Upon receipt of such notice, the Tribal Chief of Police or designee must promptly direct one or more Tribal police officers to execute the enforcement action jointly with one or more State enforcement officers. The affected GTB Member or Tribal Entity may, within seven days following the enforcement action, file a petition in Tribal Court seeking a review of the enforcement

action. If the Tribal Court determines that (i) the taxpayer is a GTB Member or Tribal Entity, (ii) the taxpayer and/or property is located within Indian Country, (iii) the State tax enforcement action pertains to one or more of the taxes that is the subject of the Tax Agreement, and (iv) the State action is in compliance with relevant State law procedures and this Agreement, the Tribal Court must affirm the enforcement action.

- (I) The administrative enforcement actions authorized under § 408(g)(2)(H) are:
  - (i) Actions in furtherance of a jeopardy assessment. [MCL 205.26]
  - (ii) Inspection of vending machines or places where tobacco products are sold or stored. [MCL 205.426a]
  - (iii) Seizure of contraband consistent with the Tobacco Products Tax Act. [MCL 205.429]
  - (iv) Inspections or seizures consistent with the Tax Agreement authorized under the Motor Fuel Tax Act or the Motor Carrier Fuel Tax Act.
  
- (J) Jurisdiction: State Tax Enforcement Actions Prior to a Hearing Where the Location of Indian Country Is In Dispute.
  - (i) In accordance with the Tax Agreement, in any case where the State proposes to take any authorized enforcement action described in § 408(g)(2)(I) above that may affect the person or property of a GTB Member or Tribal Entity and there is disagreement between the Band and the State regarding whether the affected person or property is located within or without of Indian Country, the State may elect to proceed based upon the assumption that the person or property is within its enforcement authority under State law. If the State knows, prior to taking the proposed enforcement action, that (i) the taxpayer is a GTB Member or Tribal Entity, and (ii) there is a dispute between the State and the Band as to whether the site of the proposed action is within Indian Country, the State must give notice of the proposed action to the Tribal police department. Such notice must specify the grounds for the enforcement action and the appropriate statutory or regulatory authority for such action. Upon receipt of such notice, the Chief of Police must promptly direct one or more Tribal police officers to execute the enforcement action jointly with one or more State enforcement officers.
  
  - (ii) If the taxpayer wishes to challenge the State enforcement action on the grounds that it is unlawful under State law including any modification to State law made under the Tax Agreement, and the taxpayer asserts that the taxpayer or property is located within Indian Country, and the State and the Band stipulate to the Tribal Court that there is a dispute regarding whether the person or property is located



within Indian Country, the taxpayer may petition the Tribal Court to review the propriety of the enforcement action applying State law including any modification to State law made under the Tax Agreement. The Tribal Court, for purposes of this Agreement only, and for no other precedential purpose, must treat the location of the person or property as being within Indian Country and must follow the standards and procedures set forth in § 408(g)(2)(H) above. If the Tribal Court determines that the affected person or property is not located within Indian Country or is not within the stipulated disputed area, the Tribal Court must promptly dismiss the action.

- (K) Jurisdiction: Final Tax Assessment Issued or Refund Denied to a Tribal Member Residing or a Tribal Entity Operating Wholly Within Indian Country. In accordance with the Tax Agreement, in any case where the State has issued a final tax assessment or denied a tax refund to a GTB Member residing within Indian Country, or to a Tribal Entity doing business wholly within Indian Country, for a tax imposed upon income, business activity, transactions, or privileges which were realized, occurred, or exercised wholly within Indian Country, and the GTB Member or Tribal Entity wishes to appeal the assessment or denial of refund on the grounds that it is unlawful under (i) State law including any modification to State law made under the Tax Agreement, or (ii) the Michigan Constitution, the U.S. Constitution, or federal law, provided that such claims must be limited to those that are not predicated on Indian Tribal membership, the GTB Member or Tribal Entity may appeal the final assessment or denial of refund to Tribal Court within 35 days of the issuance of the final assessment or denial of refund. The Tribal Court must follow State law relative to the practices and procedures of a case in the Michigan Court of Claims; provided however, that the taxpayer is not required to prepay the contested portion of the tax, penalty, or interest prior to filing the appeal. The uncontested portion of the tax, penalty, or interest must be paid prior to filing the appeal. The Tribal Court must make its ruling within one year of the filing of the appeal.
- (L) Jurisdiction: Final Tax Assessment Issued to a Tribal Member or a Tribal Entity or Denial of Refund Where the Location of Indian Country Is In Dispute.
- (i) In accordance with the Tax Agreement, in any case where the State has issued a final tax assessment or denied a tax refund to a GTB Member or to a Tribal Entity for a tax which the member or entity asserts is imposed upon income, business activity, transactions, or privileges that were realized, occurred, or exercised wholly within Indian Country, and the GTB Member or Tribal Entity wishes to appeal the assessment or denial of refund on the grounds that it is unlawful under (i) State law including any modification to State law made under the Tax Agreement, or (ii) the Michigan Constitution, the U.S. Constitution, or federal law, provided that such claims must be limited to those that are not predicated on Indian Tribal membership,

the Tribal Member or Tribal Entity may appeal the final assessment or denial of refund to Tribal Court within 35 days of the issuance of the final assessment or denial of the refund. If the Tribal Court determines all of the income, business activity, transaction, or privilege being taxed was realized, occurred, or was exercised wholly within Indian Country or the stipulated disputed area, the Tribal Court must, for purposes of this Ordinance only and for no other precedential purpose, treat the location of the income, business activity, transaction or privilege as being within Indian Country and must follow the standards and procedures set forth in § 408(g)(2)(K) above.

- (ii) If the Tribal Court determines that any of the taxes assessed or refunds denied were for a tax upon income, business activity, transactions, or privileges that were realized, occurred, or exercised within the State but outside of either Indian Country or the stipulated disputed area, the Tribal Court must promptly dismiss the action. Once such a dismissal is entered, the GTB Member or Tribal Entity may, consistent with State law, file a petition with the Michigan Tax Tribunal within thirty-five (35) days, or a Complaint with the Michigan Court of Claims within ninety (90) days, of the final Tribal Court order of dismissal.
  
- (M) Jurisdiction: Final Tax Assessment or Denial of Tax Refund to a Resident Tribal Member or a Tribal Entity Where Any Portion of the Activity Occurs Outside of Indian Country and Outside of a Disputed Area. State courts or tribunals will be used for the appeal of any final tax assessment or denial of tax refund to a Resident GTB Member or Tribal Entity in those instances where any portion of the income, business activity, transaction, or privilege being taxed was realized, occurred, or was exercised within the State but outside of either Indian Country or any area where the Band and the State have a disagreement as to what constitutes Indian Country.
  - (i) In any circumstances where the terms of this Ordinance and the Tax Agreement conflict, the Tax Agreement controls.

History: Internal Revenue Service Ordinance, adopted by Tribal Council on December 17, 1996. As amended by Tribal Act #03-21.1213 enacted by Tribal Council on January 21, 2004.

**§ 409 - Civil Enforcement of Tax Agreement By Grand Traverse Band of Ottawa and Chippewa Indians Against Tribal Members**

- (a) Tribal Court Action. The Tribal Prosecutor is authorized to initiate an action in Tribal Court to recover money paid by the Tribe to the State in accordance with the Tax Agreement:
  - (1) where a Tribal Member or Tribal Entity has failed to comply with a final determination of liability for 60 days; or

- (2) where a Tribal Member or Tribal Entity has used a Tribal Certificate of Exemption after the termination of the Tax Agreement.
- (b) Civil Remedy
- (1) Civil Money Damages. The Tribal Court may award damages to the Tribe in the amount the Tribe paid to the State in accordance with the Tax Agreement for either of the reasons stated in subpart A of this Section, plus interest, costs, and attorney fees. The Tribal Court may enforce its order by garnishing the Tribal Member's wages, Tribal trust funds, and per capita payments.
  - (2) Suspension or Limitation of Privileges. The Tribal Court may also issue an order suspending or limiting the privileges of Tribal Members under the Tax Agreement upon application by the Tribal Prosecutor.

History: § 409 adopted by Tribal Act #04-22.1389 enacted by Tribal Council on May 14, 2004.

**§ 410 - Caregiver Purchase of Tobacco Products and Gasoline on Behalf of Disabled Tribal Member**

- (a) The purpose of this section is to establish a procedure for the purchase of tobacco products and gasoline by a non-eligible caregiver on the behalf of a disabled Tribal member or their legal guardian.
- (b) Disabled Tribal members shall designate a caregiver by filling out a form known as the "Limited Power of Attorney Concerning the Purchase of Cigarettes and/or Gasoline from Eagle Town Market Pursuant to the Tax Agreement Between GTB and the State of Michigan."<sup>1</sup>
- (c) This form shall be available at Eagle Town Market for disabled Tribal members.
- (d) The form shall be signed by the disabled Tribal member or their legal guardian, a witness, and shall be subscribed and sworn to by a Notary Public.
- (e) Upon execution of the form, a copy will be kept on file with the Eagle Town Market, the GTB EDC Accounting Department, and the GTB Tax Administrator for verification and quarterly auditing purposes as required by the Tax Agreement Between GTB and the State of Michigan.
- (f) Designated caregivers shall provide valid photo identification when purchasing the allotted amount of cigarettes [i.e., two (2) packs per day per disabled Tribal member], and/or purchase of gasoline; and shall sign the log sheet located at Eagle Town Market.
- (g) Valid photo identification is identified as any of the following: Michigan Driver's License, Michigan State ID, a federally recognized Tribal ID, or a U.S. passport.

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<sup>1</sup> Editor's Note: A copy of this form is included at the end of this chapter.

- (h) No person other than the designated caregiver identified by the Limited Power of Attorney Concerning the Purchase of Cigarettes and/or Gasoline from Eagle Town Market Pursuant to the Tax Agreement Between GTB and the State of Michigan and valid identification will be allowed to purchase cigarettes and/or gasoline.
- (i) The Limited Power of Attorney Concerning the Purchase of Cigarettes and/or Gasoline from Eagle Town Market Pursuant to the Tax Agreement Between GTB and the State of Michigan shall be effective for a period of six (6) months.
- (j) Noncompliance with this ordinance shall disqualify the disabled Tribal member or the disabled Tribal member's legal guardian and the designated caregiver from participating in this Tribal program for a period of four (4) months. A letter of noncompliance shall be sent from the GTB Tax Administrator's office to the disqualified disabled Tribal member or the disabled Tribal member's legal guardian and copied to the designated caregiver, Eagle Town Market, and the EDC Accounting Department. This letter will identify the date of the violation, the date of disqualification and the date of reinstatement to the program.
- (k) Repeated noncompliance with this ordinance shall disqualify the disabled Tribal member or the disabled Tribal member's legal guardian and the designated caregiver indefinitely. A letter of disqualification shall be sent from the GTB Tax Administrator's office to the disqualified disabled Tribal member or the disabled Tribal member's legal guardian and copied to the designated caregiver, Eagle Town Market, and the EDC Accounting Department. This letter will identify the date of the violations and the effective date of indefinite disqualification from the program.
- (l) A database shall be created by the GTB Tax Administrator's office identifying the disabled Tribal member or their legal guardian, the designated caregiver, the date the designation was made, the date the Limited Power of Attorney expires, non-compliance disqualifications, the date of disqualification, the eligibility date for reinstatement to the caregiver program, or the date of indefinite disqualification. A copy of this database will be provided to the EDC Accounting Department for auditing purposes.

History: Tribal Act #09-27.2127, enacted by Tribal Council on February 17, 2010.