

**Tax Collection Agreements With Indian Tribes**  
**Office of State Tax Commissioner**  
**As of September 1, 2010**

Tribe	Effective Date	Tax Type	Revenue Allocation	Admin. Fee	FY2010 Revenue
Standing Rock Sioux	July 1, 1993	Cigarette and Other Tobacco Products	75% tribe / 25% state	3%.	\$ 64,692
Standing Rock Sioux	January 1, 1999	Motor Fuel and Special Fuel	75% tribe / 25% state	1%	340,570
Spirit Lake	September 1, 2006	Motor Fuel and Special Fuel	76% tribe / 24% state	1%	296,346
Three Affiliated Tribes	September 1, 2007	Motor Fuel and Special Fuel	70% tribe / 30% state	1%	1,022,803
Turtle Mountain Band of Chippewa	September 1, 2010	Motor Fuel and Special Fuel	96% tribe / 4% state	1%	N/A

Prepared by Office of State Tax Commissioner for Tribal and State Relations Committee  
Myles Vosberg, Director Tax Administration  
September 9, 2010



**TAX COLLECTION AGREEMENT BETWEEN THE STANDING ROCK  
SIOUX TRIBE AND THE OFFICE OF STATE TAX COMMISSIONER  
OF THE STATE OF NORTH DAKOTA**

This Agreement, dated May 28, 1993, by and between the Standing Rock Sioux Tribe and the Office of State Tax Commissioner of the State of North Dakota;

WHEREAS, the Standing Rock Sioux Tribe (hereinafter referred to as the Tribe) has jurisdiction to tax transactions involving Indians on the North Dakota portion of the Standing Rock Sioux Reservation; and

WHEREAS, the State of North Dakota has jurisdiction to tax transactions involving non-Indians on the North Dakota portion of the Standing Rock Sioux Reservation; and

WHEREAS, the Tribe may, under Title 16, Chapter 9, of the Standing Rock Sioux Tribe Code of Justice, enter into tax collection agreements with the State; and

WHEREAS, the Office of State Tax Commissioner is authorized, pursuant to N.D.C.C. Chapter 54-40.2 to enter into agreements with Indian Tribes;

NOW, THEREFORE, in order to implement effectively their respective tax jurisdiction, enforce their respective tax laws, and derive there from revenues to be expended for public purposes, the parties agree as follows:



1. Collection of Tribal Taxes.

The Office of State Tax Commissioner hereby agrees that it will collect and administer as a contractor the following tribal taxes providing they remain substantially similar to the corresponding state taxes:

Code of Justice, Title 16  
Cigarette and Other Tobacco Products Tax  
North Dakota Portion

The Office of State Tax Commissioner is responsible for administration and collection only. The Tribe retains the exclusive jurisdiction and tax authority to file and prosecute civil or criminal enforcement actions as needed with respect to the tribal taxes, pursuant to Tribal and Federal laws.

2. Effective Date of Tribal Taxes.

The Office of State Tax Commissioner and the Standing Rock Sioux Tribe agree that the effective date shall be July 1, 1993 for the collection of taxes on cigarettes and other tobacco products.

3. Remittance of Tax Proceeds.

- a. The Office of State Tax Commissioner agrees to remit to the Tribe, as the tribal share of revenues collected, an amount equal to seventy-five percent of the total proceeds collected on the North Dakota portion of the Reservation from the tribal taxes subject to this Agreement and the corresponding state taxes. The amount to be distributed to the Tribe is based upon the



population demographics of the last United States census. This amount may be changed at the request of either party based upon any subsequent census that is approved by the United States Census Bureau.

b. The Office of State Tax Commissioner may retain, as an administrative fee for its services in collecting the tribal taxes, three percent of the payment specified in subsection a.

c. The payment specified in subsection a less the administrative fee specified in subsection b shall be remitted to the Tribe within thirty days of collection by the Office of State Tax Commissioner, together with a breakdown of the source of the revenue. Unless otherwise requested in writing by the Tribe, the remittance shall be by certified check or state warrant, payable to the order of the Standing Rock Sioux Tribe.

4. Notification of Changes in Tax Statutes.

a. The Office of State Tax Commissioner will keep the Tribe advised of pending proposed changes to the state taxes corresponding to the tribal taxes covered by this Agreement. In addition, the Office of State Tax Commissioner will give the Tribe written notice of any enacted changes to these taxes and in the notice will specify which changes would, in the view of the Office



of State Tax Commissioner, result in the affected tribal tax ceasing to be substantially similar to the corresponding state tax if the tribal tax is not amended.

- b. The Tribe will notify the Office of State Tax Commissioner in writing of any changes enacted to the tribal taxes covered by this Agreement. If requested to do so by the Tribe, the Office of State Tax Commissioner will review any proposed change to a tribal tax covered by this Agreement in advance and advise the Tribe whether the change, if enacted, would, in the view of the Office of State Tax Commissioner, result in the tribal tax ceasing to be substantially similar to the corresponding state tax.

5. Duration and Termination.

- a. Upon the effective date, this Agreement shall remain in effect indefinitely, unless terminated pursuant to this section.
- b. This Agreement shall terminate immediately as to any tribal tax upon the repeal of that tax by the Tribe.
- c. If at any time a tribal tax is amended so that it ceases to be substantially similar to the corresponding state tax, the office of State Tax Commissioner may terminate the agreement as it pertains to that tax, by written notice to the Tribe.



- d. If the state tax is amended so that it ceases to be substantially similar to the tribal tax, the tribal tax will automatically be amended to restore substantial similarity, unless the Tribal Chairperson notifies the Office of State Tax Commissioner within thirty days, in which case the Agreement, as it pertains to that tax, shall terminate.
- e. Either party may terminate this Agreement without cause and without liability, except as to any amounts collected and due to either party, upon thirty days written notice to the other party.
- f. In the event of termination of this Agreement, the Office of State Tax Commissioner shall notify each known taxpayer affected by the termination, by first class mail, sent on or before the date the next payment is due, that it is no longer collecting under this Agreement and the taxpayer should no longer remit to it, the affected tribal tax or taxes.

7. Amendments and Waiver.

This Agreement may not be modified or amended, nor any compliance with any provision hereof be waived by an instrument or instruments in writing signed by the party against whom enforcement of any the modification, amendment or waiver is sought.



8. Address for Notice.

- a. Notice and payment required to be sent to the Tribe under this Agreement shall be sent to:

Chairperson  
Standing Rock Sioux Tribe  
Fort Yates, North Dakota 58538

- b. Notice required to be sent to the Office of State Tax Commissioner under this Agreement shall be sent to:

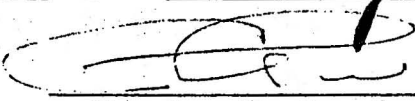
Office of State Tax Commissioner  
State of North Dakota  
State Capitol  
Bismarck, North Dakota 58505-0599

Either party may change its notice address by giving written notice of the change to the other party.

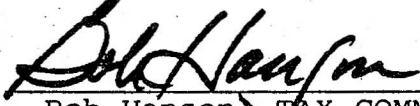
IN WITNESS WHEREOF, the Tribe and the Office of State Tax Commissioner for the State of North Dakota have caused this Agreement to be executed and delivered by its respective officers, duly authorized.

Dated this 28<sup>th</sup> day of May, 1993

5/28/93  
Date

  
Charles W. Murphy, CHAIRMAN  
Standing Rock Sioux Tribe

5/28/93  
Date

  
Bob Hanson, TAX COMMISSIONER  
State of North Dakota



Approved pursuant to N.D.C.C. Section 54-40.2-40 this 28<sup>th</sup>  
day of May, 1993.

Edward T. Schafer  
Edward t. Schafer, GOVERNOR  
State of North Dakota





**TAX COLLECTION AGREEMENT BETWEEN THE STANDING ROCK  
SIOUX TRIBE AND THE OFFICE OF THE STATE TAX COMMISSIONER  
OF THE STATE OF NORTH DAKOTA**

This Agreement, dated December 1, 1998, by and between the Standing Rock Sioux Tribe and the Office of the State Tax Commissioner of the State of North Dakota;

WHEREAS, the Standing Rock Sioux Tribe (hereinafter referred to as the Tribe) has jurisdiction to tax transactions involving Indians on the North Dakota portion of the Standing Rock Sioux Reservation; and

WHEREAS, the State of North Dakota has jurisdiction to tax certain transactions involving non-Indians on the North Dakota portion of the Standing Rock Sioux Reservation; and

WHEREAS, the Tribe may, under Title 16, Chapter 9, of the Standing Rock Sioux Tribe Code of Justice, enter into tax collection agreements with the State; and

WHEREAS, the Office of the State Tax Commissioner is authorized pursuant to N.D.C.C. Chapter 54-40.2 to enter into agreements with Indian Tribes;

NOW, THEREFORE, in order to implement effectively their respective tax jurisdiction, enforce their respective tax laws, and derive therefrom revenues to be expended for public purposes, the parties agree as follows:

1. **Collection of Tribal Taxes.**

The Office of the State Tax Commissioner hereby agrees that it will collect and administer as a contractor the following tribal taxes providing they remain substantially similar to the corresponding state taxes:

Code of Justice, Title 16  
Motor Fuel Tax and Special Fuels Tax  
North Dakota Portion

The Office of the State Tax Commissioner is responsible for administration and collection only. The Tribe retains the exclusive jurisdiction and tax authority to file and prosecute civil and criminal enforcement actions as needed with respect to the tribal taxes, pursuant to Tribal and Federal laws.

2. **Effective Date of Tribal Taxes.**

The Office of the State Tax Commissioner and the Standing Rock Sioux Tribe agree that the effective date shall be January 1, 1998 for the collection of taxes on motor fuels.

3. **Remittance of Tax Proceeds.**

- a. The Office of the State Tax Commissioner agrees to remit to the Tribe, as a tribal share of revenues collected, an amount equal to seventy-five percent of the total proceeds collected on the North Dakota portion of the Reservation from the tribal taxes subject to this Agreement and the corresponding State taxes. The amount to be distributed to the Tribe is based upon the population demographics of the last United States census. This amount may be changed at the request of either party



based upon any subsequent census that is approved by the United States Census Bureau, or other data agreed upon by the parties.

- b. The Office of the State Tax Commissioner may retain, as an administrative fee for its services in collecting the tribal taxes, one percent of the payment specified in subsection a.
- c. The payment specified in subsection a, less the administrative fee specified in subsection b, shall be remitted to the Tribe on a monthly basis within thirty days from the end of the calendar month during which the collection occurs. Unless otherwise requested in writing by the Tribe, the remittance shall be by state warrant issued by the State Treasurer, payable to the order of the Standing Rock Sioux Tribe.
- d. The State Tax Commissioner shall furnish the Tribe with a breakdown of the source of the revenue payment specified in subsection c on a monthly basis within thirty days from the end of the calendar month during which the collection occurred.

4. Notification of Changes in Tax Statutes.

- a. The Office of the State Tax Commissioner will keep the Tribe advised of pending proposed changes to the state taxes corresponding to the tribal taxes covered by this Agreement. In addition, the Office of the State Tax Commissioner will give the Tribe written notice of any enacted changes to these taxes and in the notice will specify which changes would, in the view of the Office of the State Tax Commissioner, result in the affected tribal tax ceasing to be substantially similar to the corresponding state tax if the tribal tax is not amended.

- b. The Tribe will notify the Office of the State Tax Commissioner in writing of any changes enacted to the tribal taxes covered by this Agreement. If requested to do so by the Tribe, the Office of the State Tax Commissioner will review any proposed change to a tribal tax covered by this Agreement in advance and advise the Tribe whether the change, if enacted, would, in the view of the Office of the State Tax Commissioner, result in the tribal tax ceasing to be substantially similar to the corresponding state tax.

**5. Duration and Termination.**

- a. Upon the effective date, this Agreement shall remain in effect indefinitely, unless terminated pursuant to this section.
- b. This Agreement shall terminate immediately as to any tribal tax upon the repeal of that tax by the Tribe.
- c. If at any time a tribal tax is amended so that it ceases to be substantially similar to the corresponding state tax, the Office of the State Tax Commissioner may terminate the Agreement as it pertains to that tax, by written notice to the Tribe.
- d. If the state tax is amended so that it ceases to be substantially similar to the tribal tax, the Tribe shall, within 30 days of receiving notification of the amended state tax, either 1) amend the tribal tax to restore substantial similarity, or 2) notify the State Tax Commissioner that this Agreement is terminated as to that tax.
- e. Either party may terminate this Agreement without cause and without liability, except as to any amounts collected and due to either party, upon thirty days written notice to the other party.



- f. In the event of termination of this Agreement, the Office of the State Tax Commissioner shall notify each known taxpayer affected by the termination, by first class mail, sent on or before the date the next payment is due, that it is no longer collecting under this Agreement and the taxpayer should no longer remit to it, the affected tribal tax or taxes.

**6. Amendments and Waiver.**

This Agreement may not be modified or amended, nor any compliance with any provision thereof be waived except by an instrument or instruments in writing signed by the party against whom enforcement of any the modification, amendment or waiver is sought.

**7. Address for Notice.**

- a. Notice and payment required to be sent to the Tribe under this Agreement shall be sent to:

Chairperson  
Standing Rock Sioux Tribe  
Fort Yates, North Dakota 58538

- b. Notice required to be sent to the Office of the State Tax Commissioner under this Agreement shall be sent to:

Office of State of Tax Commissioner  
State of North Dakota  
State Capitol  
Bismarck, North Dakota 58505-0599

- c. Either party may change its notice address by giving written notice of the change to the other party.

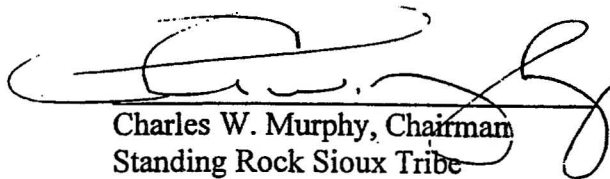
**8. Exemption for Tribal Vehicles.**

Motor vehicle fuel and special fuel used in a vehicle owned or leased by the Tribe and used for governmental purposes shall be exempt from motor vehicle fuel and special fuel taxes, and any tax paid on motor vehicle fuel or special fuel for such vehicles shall be refunded to the Tribe by the Office of the State Tax Commissioner.

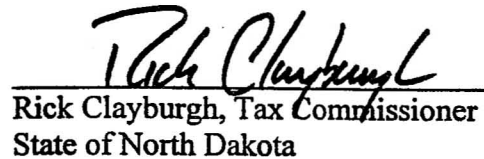
IN WITNESS WHEREOF, the Tribe and the Office of the State Tax Commissioner for the State of North Dakota have caused this Agreement to be executed and delivered by its respective officers, duly authorized.

Dated this 1<sup>st</sup> day of December, 1998.

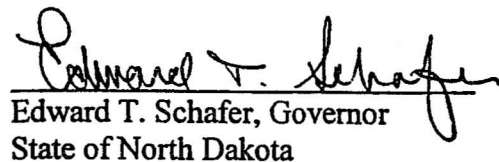
10-29-98  
Date

  
Charles W. Murphy, Chairman  
Standing Rock Sioux Tribe

11-30-98  
Date

  
Rick Clayburgh, Tax Commissioner  
State of North Dakota

Approved pursuant to N.D.C.C. Section 54-40.2-40 this 1 day of Dec, 1998.

  
Edward T. Schafer, Governor  
State of North Dakota





# **TAX COLLECTION AGREEMENT BETWEEN THE SPIRIT LAKE TRIBE AND THE STATE OF NORTH DAKOTA**

This Agreement is between the State of North Dakota, by and through its Office of State Tax Commissioner (the "State") and the Spirit Lake Tribe (formerly Devils Lake Sioux Tribe), (the "Tribe"). The State and Tribe, through the Spirit Lake Tribal Council (the "Tribal Council"), the duly formed governing body of the Tribe, hereby agree to the following:

## **1. Statement of Intent**

The intent of this Agreement is to:

- A. Provide for the mutual recognition and respect by the State and Tribe of one another's sovereignty;
- B. Give recognition to the respective tax jurisdiction of the State and Tribe in a mutually satisfactory way that does not compromise either party's right to assert a position upon termination of the Agreement;
- C. Provide for an efficient method of imposing and collecting taxes on motor vehicle fuels and special fuels sold to consumers on the Spirit Lake Reservation;
- D. Distribute the revenue from those taxes in a manner that reflects the proportion of tribal members to non-tribal members residing on the Reservation;
- E. Avoid litigation; and
- F. Provide for the application of uniform motor vehicle fuels and special fuels taxes for tribal members and non-tribal members on the Spirit Lake Reservation.

## **2. Sovereign Immunity**

Nothing contained in this Agreement is or shall be construed to be a waiver of the sovereign immunity of the Tribe, its Tribal Council, officials, or entities. The Tribe expressly retains its sovereign immunity. In the event of a conflict with any other provision of this Agreement, the terms of Paragraph 2 shall prevail and control.

## **3. Acknowledgements of Authority**

The parties acknowledge the following as a basis for this Agreement:

### **A. Tribal Authority**

- 1. The Spirit Lake Tribe has jurisdiction to tax certain transactions on the Spirit Lake Reservation.
- 2. The Tribal Council may, under Title 14, Chapter 1 of the Spirit Lake Tribe, Law and Order Code, enter into tax collection agreements with the State.

3. Specific to this Agreement, the parties acknowledge that the Tribe has jurisdiction to impose its Motor Vehicle Fuel Tax and Special Fuel Tax on fuel purchases made on the Spirit Lake Reservation.

**B. State Authority**

1. The State has concurrent jurisdiction to tax certain transactions involving non-members of the Spirit Lake Tribe on the Spirit Lake Reservation.

2. The State may, under North Dakota Century Code Chapter 54-40.2, enter into agreements with Native American Tribes.

3. Specific to this Agreement, the parties agree that the State has concurrent jurisdiction with the Tribe to impose its Motor Vehicle Fuel Tax and Special Fuel Tax on fuel purchases made by non-members of the Spirit Lake Tribe on the Spirit Lake Reservation.

**4. Taxes Included in This Agreement**

**A. Motor Vehicle Fuel and Special Fuel**

1. The parties agree that for purposes of this Agreement, the State will collect one motor vehicle fuel tax and special fuel tax per transaction made by both members of the Spirit Lake Tribe and non-members of the Spirit Lake Tribe and distribute the revenue collected from those taxes as provided below.

2. The State agrees that it will collect and administer as a contractor the following tribal taxes provided they remain substantially similar to the corresponding state taxes:

Spirit Lake Tribe, Law and Order Code  
Title 7, Chapters 14 and 15  
Motor Vehicle Fuels Tax and Special Fuels Tax

(a) The State is responsible only for the administration and collection of these taxes. The Tribe retains exclusive jurisdiction and tax authority to file and prosecute civil and criminal enforcement actions as needed with respect to the tribal taxes, according to Tribal and Federal laws, and engage in any collection or enforcement action necessary to implement the requirements of this Agreement.

(b) The amount of the tax will be the amount imposed generally in North Dakota for such products, as amended from time to time.

(c) Upon request of the State, the Tribe will assist the State in the assessment and collection of any tax subject to this Agreement.

**B. Other Taxes**

1. Nothing in this Agreement is meant to preclude the Tribe from imposing other taxes within the Tribe's jurisdiction.



2. Nothing in this Agreement is meant to preclude the State from imposing other taxes within the State's jurisdiction.

**5. Remittance of Tax Proceeds and Retention of Administrative Fee**

**A. Tax Proceeds**

1. The State agrees to remit to the Tribe, as a tribal share of revenues collected, an amount equal to seventy-six percent (76%) of the total proceeds collected from the tribal taxes subject to this Agreement and the corresponding state taxes.

2. The amount to be distributed to the Tribe shall be based upon the population demographics of the 2000 United States Census. The revenue share shall be changed at the request of either party to reflect any change in the proportion of tribal members to non-tribal members residing on the Reservation, as reported in any subsequent United States Census.

3. The payment specified in Paragraph 5(A)(1), less the administrative fee specified in Paragraph 5(B), below, shall be remitted by the State to the Tribe on a monthly basis within thirty (30) days from the end of the calendar month during which the collection occurs. Unless otherwise requested in writing by the Tribe, the remittance shall be by state warrant issued by the State Treasurer, payable to the order of the Spirit Lake Tribe Tax Department.

4. The State shall furnish the Tribe with an itemized list of the source of the revenue payment specified in Paragraph 5(A)(1) on a monthly basis within thirty (30) days from the end of the calendar month during which the collection occurred.

**B. Administrative Fee**

The State shall retain, as a service fee for the collection and administration of the tribal taxes subject to this Agreement, one percent (1%) of the payment specified in Paragraph 5(A)(1) of this Agreement.

**6. Implementation and Administration of the Agreement**

**A. Tribal Implementation and Administration**

1. The Tribe will cause to be adopted and enforce such tribal laws as are necessary to implement the requirements of this Agreement which shall include, without limitation, assessment, collection, enforcement, and administration provisions.

2. The Tribe agrees that, subject to the provisions of this Agreement, the taxes provided for by Tribal law under this Agreement shall be imposed and collected in connection with all affected transactions occurring on the Spirit Lake Reservation. The tribal taxes covered by this Agreement shall be the same as the corresponding state taxes, and all subsequent amendments thereto, and shall be collected and remitted in the same manner as required under the North Dakota Century Code.

3. The Tribe will notify the State in writing of any enacted changes to the tribal taxes covered by this Agreement. If requested to do so by the Tribe, the State will review any

proposed change to a tribal tax covered by this Agreement in advance and advise the Tribe whether the change, if enacted, would, in the view of the State, result in the tribal tax ceasing to be substantially similar to the corresponding state tax.

**B. State Implementation and Administration**

1. The State agrees to provide the Tribe written notice of any pending changes to the state taxes corresponding to the tribal taxes covered by this Agreement which may result in the tribal taxes ceasing to be substantially similar to the corresponding state tax.

2. The State will give written notice to the Tribe of any enacted changes to state taxes and in the notice will specify which changes would, in the view of the State, result in the affected tribal tax ceasing to be substantially similar to the corresponding state tax if the tribal tax is not amended.

**C. Administration and Maintenance of Records**

1. The Tribe agrees to keep accurate records setting forth information in sufficient detail to allow for verification that the Tribe and Tribally-owned entities are collecting and remitting the correct amount of tax due under to this Agreement.

2. Upon reasonable request of the Tribe, the State shall make available to the Tribe all records of tax filings that relate to the taxes covered by this Agreement.

3. If the State receives a request for information pertaining to this Agreement that it is required to furnish under the State's Open Records laws, the State will inform the Tribe of the request and information released.

**7. Effective Date, Duration, and Termination of the Agreement**

**A. Effective Date**

The parties agree that the effective date for collection and administration of motor vehicle fuel taxes and special fuel taxes in the manner provided by this Agreement shall be September 1, 2006.

**B. Duration**

Upon the effective date, this Agreement shall remain in effect indefinitely, unless terminated under the provisions of Paragraph 7(C).

**C. Termination**

1. Either party may terminate this Agreement without cause and without liability, except as to any amounts collected and due to either party, upon thirty (30) days written notice to the other party.

2. Before the Agreement is terminated under this provision, the parties will meet and make a good faith effort to resolve the differences leading to the notice of termination. A Notice

of Intent to terminate on behalf of the Tribe must be executed by the Tribal Council. A Notice of Intent to terminate on behalf of the State must be executed by the State Tax Commissioner.

3. This Agreement shall terminate immediately as to any tribal tax upon the repeal of that tax by the Tribe.

4. In the event of termination of this Agreement, the State shall notify each known taxpayer affected by the termination, by first class mail, sent on or before the date the next payment is due, that it will no longer collect the taxes covered by this Agreement, and that the taxpayer should no longer remit to it the affected tribal tax or taxes.

**8. Amendments and Waiver**

This Agreement may not be modified or amended, nor may compliance with any provision of it be waived except by an instrument or instruments in writing signed by the party against whom enforcement of any modification, amendment, or waiver is sought.

**9. Exemption from Tax and Refunds**

Motor vehicle fuel and special fuel used in a vehicle owned or leased by the Tribe and used for governmental purposes shall be exempt from motor vehicle fuel taxes and special fuel taxes. Any tax paid on motor vehicle fuel or special fuel for such vehicle shall be refunded to the Tribe by the State.

**10. Notices and Payment**

**A. Notice**

Notice required to be sent to the Tribe under this Agreement shall be sent to:

Chairperson  
Spirit Lake Tribe  
P.O. Box 359  
Fort Totten, ND 58335-0359

Office of Tribal Tax Director  
Spirit Lake Tribal Tax Department  
PO Box 192  
Fort Totten, ND 58335-0192

Notice required to be sent to the State under this Agreement shall be sent to:

North Dakota Office of State Tax Commissioner  
Motor Vehicle and Special Fuels Section  
600 East Boulevard Avenue  
Bismarck, ND 58505-0599

**B. Payment**

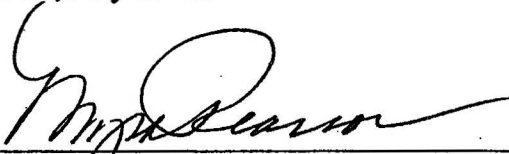
Payment required to be sent to the Tribe under this Agreement shall be sent to:

Office of Tribal Tax Director  
Spirit Lake Tribal Tax Department  
P.O. Box 192  
Fort Totten, ND 58335-0192

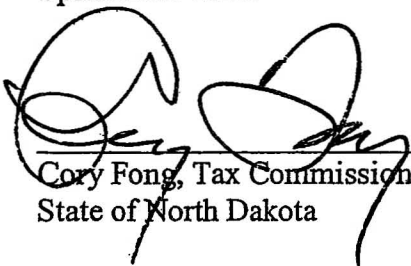
Either party may change its Notice address by giving written notice of the change to the other party.

IN WITNESS WHEREOF, the Tribe and State have caused this Agreement to be executed and delivered by their respective officers, duly authorized.

8/2/06  
Date

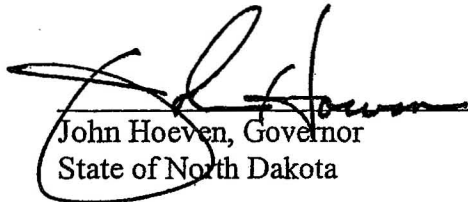
  
\_\_\_\_\_  
Myra Pearson, Chairperson  
Spirit Lake Tribe

8/2/06  
Date

  
\_\_\_\_\_  
Cory Fong, Tax Commissioner  
State of North Dakota

This Agreement is approved under N.D.C.C. § 54-40.2-04.

10/25/06  
Date

  
\_\_\_\_\_  
John Hoeven, Governor  
State of North Dakota



# **TAX COLLECTION AGREEMENT BETWEEN THE THREE AFFILIATED TRIBES AND THE STATE OF NORTH DAKOTA**

This Motor Vehicle Fuel Tax and Special Fuel Tax Collection Agreement ("Agreement") is between the State of North Dakota, by and through its Office of State Tax Commissioner ("State") and the Three Affiliated Tribes ("Tribes"). The State, and the Tribes, through their Tribal Business Council ("TBC"), the duly established governing body of the Tribes, hereby agree to the following:

## **1. Statement of Intent**

The intent of this Agreement is to:

- A. Provide for the mutual recognition and respect by the State and Tribes of one another's sovereignty;
- B. Give recognition to the respective tax jurisdiction of the State and Tribes in a mutually satisfactory way that does not compromise either party's right to assert a position upon termination of the Agreement;
- C. Provide for an efficient method of imposing and collecting taxes on motor vehicle fuels and special fuels sold to consumers on the Fort Berthold Indian Reservation;
- D. Distribute the revenue from those taxes in a manner that reflects the proportion of tribal members to non-tribal members residing on the Fort Berthold Indian Reservation;
- E. Avoid litigation; and
- F. Provide for the application of uniform motor vehicle fuel taxes and special fuels taxes for tribal members and non-tribal members on the Fort Berthold Indian Reservation.

## **2. Sovereign Immunity**

Nothing contained in this Agreement is or shall be construed to be a waiver of the sovereign immunity of the Tribes, their Tribal Business Council, officials, or entities. The Tribes expressly retain their sovereign immunity. In the event of a conflict with any other provision of this Agreement, the terms of Paragraph 2 shall prevail and control.

## **3. Acknowledgements of Authority**

The parties acknowledge the following as a basis for this Agreement:

- A. **Tribal Authority**
  - 1. The Tribes have jurisdiction to tax certain transactions on the Fort Berthold Indian Reservation.
  - 2. The Tribal Business Council may, under Section 5(d) of Article VI of the

Constitution and By-Laws of the Three Affiliated Tribes, enter into tax collection agreements with the State.

3. Specific to this Agreement, the parties acknowledge that the Tribes have jurisdiction to impose their Motor Vehicle Fuel Tax and Special Fuel Tax on fuel purchases made on the Fort Berthold Indian Reservation.

**B. State Authority**

1. The State, subject to inherent limitations under law, has concurrent jurisdiction to tax certain transactions involving non-members of the Three Affiliated Tribes on the Fort Berthold Indian Reservation.

2. The State may, under North Dakota Century Code Chapter 54-40.2, enter into agreements with Native American Tribes.

3. Specific to this Agreement, the parties agree that the State, subject to inherent limitations under law, has concurrent jurisdiction with the Tribes to impose its Motor Vehicle Fuel Tax and Special Fuel Tax on fuel purchases made by non-members of the Three Affiliated Tribes on the Fort Berthold Indian Reservation.

**4. Taxes Included in This Agreement**

**A. Motor Vehicle Fuel and Special Fuel**

1. The parties agree that for purposes of this Agreement, the State will collect one motor vehicle fuel tax and special fuel tax per transaction made by both members of the Three Affiliated Tribes and non-members of the Three Affiliated Tribes on the Fort Berthold Indian Reservation and distribute the revenue collected from those taxes as provided below in Paragraph 5.

2. The State agrees that it will collect and administer as a contractor the following tribal taxes provided they remain substantially similar to the corresponding state taxes:

Three Affiliated Tribes Tax Ordinance  
Chapter 9 - Motor Vehicle Fuel Tax &  
Chapter 10 - Special Fuel Tax

(a) The State is responsible only for the administration and collection of these taxes. The Tribes retain exclusive jurisdiction and tax authority to file and prosecute civil and criminal enforcement actions as needed with respect to the tribal taxes, according to Tribal and Federal laws, and engage in any collection or enforcement action necessary to implement the requirements of this Agreement.

(b) The amount of the tax will be the amount imposed generally in North Dakota for such products, as amended from time to time.

(c) Upon request of the State, the Tribes will assist the State in the assessment and collection of any tax subject to this Agreement.

**B. Other Taxes**

1. Nothing in this Agreement is meant to preclude the Tribes from imposing other taxes within the jurisdiction of the Three Affiliated Tribes.

2. Nothing in this Agreement is meant to preclude the State from imposing other taxes within the jurisdiction of the State of North Dakota.

**5. Remittance of Tax Proceeds and Retention of Administrative Fee**

**A. Tax Proceeds**

1. The State agrees to remit to the Tribes, as a tribal share of revenues collected, an amount equal to seventy percent (70%) of the total proceeds collected from the tribal taxes subject to this Agreement and corresponding state taxes.

2. The amount to be distributed to the Tribes shall be based upon the population demographics of the 2000 United States Census. The revenue share shall be changed at the request of either party to reflect any change in the proportion of tribal members to non-tribal members residing on the Reservation, as reported in any subsequent United States Census.

3. The payment specified in Paragraph 5(A)(1), above, less the administrative fee specified in Paragraph 5(B), below, shall be remitted by the State to the Tribes on a monthly basis within thirty (30) days from the end of the calendar month during which the collection occurs. Unless otherwise requested in writing by the Tribes, the remittance shall be by state warrant issued by the State Treasurer, payable to the order of the Three Affiliated Tribes.

4. The State shall furnish the Tribes with an itemized list of the source of the revenue payment specified in Paragraph 5(A)(1) of this Agreement on a monthly basis within thirty (30) days from the end of the calendar month during which the collection occurred.

**B. Administrative Fee**

The State shall retain, as a service fee for the collection and administration of the tribal taxes subject to this Agreement, one percent (1%) of the payment specified in Paragraph 5(A)(1) of this Agreement.

**6. Implementation and Administration of the Agreement**

**A. Tribal Implementation and Administration**

1. The Tribes will cause to be adopted and enforce such tribal laws as are necessary to implement the requirements of this Agreement which shall include, without limitation, assessment, collection, enforcement, and administration provisions.

2. The Tribes agree that, subject to the provisions of this Agreement, the taxes provided for by Tribal law under this Agreement shall be imposed and collected in connection with all affected transactions occurring on the Fort Berthold Indian Reservation. The tribal taxes

covered by this Agreement shall be the same as the corresponding state taxes, and all subsequent amendments thereto, and shall be collected and remitted in the same manner as required under the North Dakota Century Code.

3. The Tribes will notify the State in writing of any enacted changes to the tribal taxes covered by this Agreement. If requested to do so by the Tribes, the State will review any proposed change to a tribal tax covered by this Agreement in advance and advise the Tribes whether the change, if enacted, would, in the view of the State, result in the tribal tax ceasing to be substantially similar to the corresponding state tax.

**B. State Implementation and Administration**

1. The State agrees to provide the Tribes written notice of any pending changes to the state taxes corresponding to the tribal taxes covered by this Agreement which may result in the tribal taxes ceasing to be substantially similar to the corresponding state tax.

2. The State will give written notice to the Tribes of any enacted changes to state taxes and in the notice will specify which changes would, in the view of the State, result in the affected tribal tax ceasing to be substantially similar to the corresponding state tax if the tribal tax is not amended.

**C. Administration and Maintenance of Records**

1. The Tribes agree to keep accurate records setting forth information in sufficient detail to allow for verification that Tribally-owned entities are collecting and remitting the correct amount of tax due under to this Agreement.

2. Upon reasonable request of the Tribes, the State shall make available to the Tribes all records of tax filings that relate to the taxes covered by this Agreement.

3. If the State receives a request for information pertaining to this Agreement that it is required to furnish under the State's Open Records laws, the State will inform the Tribes of the request and information released.

**7. Effective Date, Duration, and Termination of the Agreement**

**A. Effective Date**

The parties agree that the effective date for collection and administration of motor vehicle fuel taxes and special fuel taxes in the manner provided by this Agreement shall be September 1, 2007.

**B. Duration**

Upon the effective date, this Agreement shall remain in effect indefinitely, unless terminated under the provisions of Paragraph 7(C).



### **C. Termination**

1. Either party may terminate this Agreement without cause and without liability, except as to any amounts collected and due to either party, upon thirty (30) days written notice to the other party.

2. Before the Agreement is terminated under this provision, the parties will meet and make a good faith effort to resolve the differences leading to the Notice of Termination. A Notice of Intent to terminate on behalf of the Tribes must be executed by the Tribal Business Council. A Notice of Intent to terminate on behalf of the State must be executed by the State Tax Commissioner.

3. This Agreement shall terminate immediately as to any tribal tax upon the repeal of that tax by the Tribes.

4. In the event of termination of this Agreement, the State shall notify each known taxpayer affected by the termination, by first class mail, sent on or before the date the next payment is due, that it will no longer collect the taxes covered by this Agreement, and that the taxpayer should no longer remit to it the affected tribal tax or taxes.

### **8. Amendment and Waiver**

This Agreement may not be modified or amended, nor may compliance with any provision of it be waived except by an instrument or instruments in writing signed by the party against whom enforcement of any modification, amendment, or waiver is sought.

### **9. Exemption from Tax and Refunds**

Motor vehicle fuel and special fuel used in a vehicle owned or leased by the Tribes and used for governmental purposes shall be exempt from motor vehicle fuel taxes and special fuel taxes. Any tax paid on motor vehicle fuel or special fuel for such vehicles shall be refunded to the Tribes by the State.

### **10. Notice and Payment**

#### **A. Notice**

Notice required to be sent to the Tribes under this Agreement shall be sent to:

Tribal Chairperson  
Three Affiliated Tribes  
404 Frontage Road  
New Town, North Dakota 58763-9402

Notice required to be sent to the State under this Agreement shall be sent to:

North Dakota Office of State Tax Commissioner  
Motor Vehicle Fuel Tax and Special Fuel Tax Section  
600 East Boulevard Avenue  
Bismarck, North Dakota 58505-0599

**B. Payment**

Payment required to be sent to the Tribes under this Agreement shall be sent to:

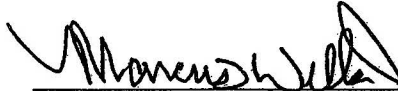
Three Affiliated Tribes  
Tax Department  
404 Frontage Road  
New Town, North Dakota 58763-9402

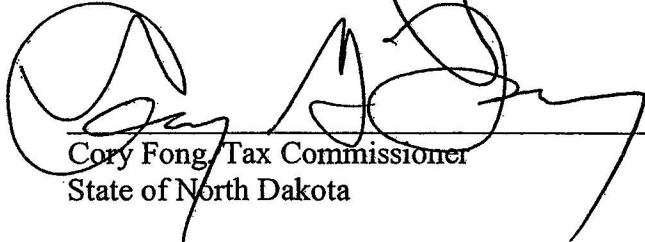
Either party may change its Notice address by giving written notice of the change to the other party.

IN WITNESS WHEREOF, the Three Affiliated Tribes and State of North Dakota have caused this Agreement to be executed and delivered by their respective officers, duly authorized.

May 30, 2007  
Date

5/30/07  
Date

  
\_\_\_\_\_  
Marcus D. Wells, Jr., Chairman  
Three Affiliated Tribes

  
\_\_\_\_\_  
Cory Fong, Tax Commissioner  
State of North Dakota

This Agreement is approved under N.D.C.C. § 54-40.2-04.

Sept. 4, 2007  
Date

  
\_\_\_\_\_  
John Hoeven, Governor  
State of North Dakota

# **TAX COLLECTION AGREEMENT BETWEEN THE TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS AND THE STATE OF NORTH DAKOTA**

This Agreement is between the State of North Dakota, by and through its Office of State Tax Commissioner (the "State") and the Turtle Mountain Band of Chippewa Indians (the "Tribe"). The State and Tribe, through the Turtle Mountain Band of Chippewa Indians Tribal Council (the "Tribal Council"), the duly formed governing body of the Tribe, hereby agree to the following:

## **1. Statements of Authority**

### **A. Tribal Authority**

1. The Tribe has jurisdiction to impose taxes on certain transactions occurring within the exterior boundaries of the Turtle Mountain Reservation.
2. The Tribal Council may, under Article IX, Section (a)(1) of the Turtle Mountain Constitution, represent the Band and negotiate with the State.
3. The Tribal Council may, under Article IX, Section (b)(14) of the Turtle Mountain Constitution, enter into this Tax Collection Agreement with the State.
4. Specific to this Agreement, the parties acknowledge that the Tribe has jurisdiction to impose its Motor Vehicle Fuel tax and Special Fuel tax on fuel purchases made by members of the Tribe occurring within the exterior boundaries of the Turtle Mountain Reservation.

### **B. State Authority**

1. The State has concurrent jurisdiction to tax certain transactions involving non-members of the Tribe occurring on the Turtle Mountain Reservation.
2. The State may, under North Dakota Century Code Chapter 54-40.2, enter into agreements with Native American Tribes.
3. Specific to this Agreement, the parties agree that the State has concurrent jurisdiction with the Tribe to impose its Motor Vehicle Fuel tax and Special Fuel tax on fuel purchases made by non-members of the Tribe occurring within the exterior boundaries of the Turtle Mountain Reservation.

## **2. Taxes Included in This Agreement**

### **A. Motor Vehicle Fuel and Special Fuel**

1. The parties agree that for purposes of this Agreement, the State will collect its Motor Vehicle Fuel tax and Special Fuel tax on each transaction made by non-members of the Tribe occurring within the exterior boundaries of the Turtle Mountain Reservation and retain and distribute the revenue collected from those taxes as provided by state law.

2. The parties further agree that for purposes of this Agreement, the State will collect the Tribal Motor Vehicle Fuel tax and Special Fuel tax on each transaction made by members of the Tribe occurring within the exterior boundaries of the Turtle Mountain Reservation and distribute the revenue collected from those taxes as provided below.

3. The State agrees that it will collect and administer as a contractor the above-referenced Tribal taxes provided they remain substantially similar to the corresponding state taxes.

4. The State is responsible only for the administration and collection of these Tribal taxes. The Tribe retains exclusive jurisdiction and authority to file and prosecute civil and criminal enforcement actions as needed with respect to the Tribal taxes, according to Tribal and Federal laws, and engage in any collection or enforcement action necessary to implement the requirements of this Agreement.

5. The amount of the Tribal taxes will be the amount imposed by state tax generally in North Dakota for such products, as amended from time to time.

6. Upon request of the State, the Tribe will assist the State in the assessment and collection of any taxes subject to this Agreement.

#### **B. Other Taxes**

1. Nothing in this Agreement is meant to preclude the Tribe from imposing other taxes within the Tribe's jurisdiction.

2. Nothing in this Agreement is meant to preclude the State from imposing other taxes within the State's jurisdiction.

### **3. Remittance of Tax Proceeds and Retention of Administrative Fee**

#### **A. Tax Proceeds**

1. The State agrees to remit to the Tribe, as a tribal share of revenues collected, an amount equal to ninety-six percent (96%) of the total proceeds collected from the Tribal taxes subject to this Agreement and the corresponding state taxes.

2. The amount to be distributed to the Tribe shall be based upon the population demographics of the 2000 United States Census. The revenue share shall be changed at the request of either party to reflect any change in the proportion of Tribal members to non-Tribal members residing on the Reservation, as reported in any subsequent United States Census.

3. The payment specified in Paragraph 3(A)(1), less the administrative fee specified in Paragraph 3(B), below, shall be remitted by the State to the Tribe on a monthly basis within thirty (30) days from the end of the calendar month during which the collection occurs. Unless otherwise requested in writing by the Tribe, the remittance shall be by state warrant issued by the State Treasurer, payable to the order of the "Turtle Mountain Band of Chippewa Tribe."



4. The State shall furnish the Tribe with an itemized list of the source of the revenue payment specified in Paragraph 3(A)(1) on a monthly basis within thirty (30) days from the end of the calendar month during which the collection occurred.

**B. Administrative Fee**

The State shall retain, as a service fee for the collection and administration of the Tribal fees subject to this Agreement, one percent (1%) of the payment specified in Paragraph 3(A)(1) of this Agreement.

**4. Implementation and Administration of the Agreement**

**A. Tribal Implementation and Administration**

1. The Tribe will cause to be adopted, maintained, and enforce such Tribal laws as are necessary to implement the requirements of this Agreement which shall include, without limitation, assessment, collection, enforcement, and administration provisions.

2. The Tribe agrees that, subject to the provisions of this Agreement, the taxes provided for by Tribal law under this Agreement shall be imposed and collected in connection with all affected transactions occurring within the exterior boundaries of the Turtle Mountain Reservation. The Tribal taxes covered by this Agreement shall be the same as the corresponding state taxes, and all subsequent amendments thereto, and shall be collected and remitted in the same manner as required under the North Dakota Century Code.

3. The Tribe will notify the State in writing of any enacted changes to the Tribal taxes covered by this Agreement. If requested to do so by the Tribe, the State will review any proposed change to a Tribal tax covered by this Agreement in advance and advise the Tribe whether the change, if enacted, would, in the view of the State, result in the Tribal tax ceasing to be substantially similar to the corresponding State tax.

**B. State Implementation and Administration**

1. The State agrees to provide the Tribe written notice of any pending changes to the state taxes corresponding to the Tribal taxes covered by this Agreement which may result in the Tribal taxes ceasing to be substantially similar to the corresponding State tax.

2. The State will give written notice to the Tribe of any enacted changes to State taxes and in the notice will specify which changes would, in the view of the State, result in the affected Tribal tax ceasing to be substantially similar to the corresponding State tax if the Tribal tax is not amended.

**C. Administration and Maintenance of Records**

1. The Tribe agrees to keep accurate records setting forth information in sufficient detail to allow for verification that the Tribe and Tribally-owned entities are collecting and remitting the correct amount of taxes due under this Agreement.

2. Upon reasonable request of the Tribe, the State shall make available to the Tribe all records of filings that relate to the taxes covered by this Agreement.

3. If the State receives a request for information pertaining to this Agreement that it is required to furnish under the State's Open Records laws, the State will inform the Tribe of the request and information released.

**5. Effective Date, Duration, and Termination of the Agreement**

**A. Effective Date**

The parties agree that the effective date for collection and administration of motor vehicle fuel taxes and special fuel taxes in the manner provided by this Agreement shall be September 1, 2010.

**B. Duration**

Upon the effective date, this Agreement shall remain in effect indefinitely, unless terminated under the provisions of Paragraph 5(C).

**C. Termination**

1. Either party may terminate this Agreement without cause and without liability, except as to any amounts collected and due to either party, upon thirty (30) days written notice to the other party.

2. Before the Agreement is terminated under this provision, the parties will meet and make a good faith effort to resolve the differences leading to the notice of termination. A Notice of Intent to terminate on behalf of the Tribe must be executed by the Tribal Council. A Notice of Intent to terminate on behalf of the State must be executed by the State Tax Commissioner.

3. This Agreement shall terminate immediately as to any Tribal tax upon the repeal of that tax by the Tribe.

4. In the event of termination of this Agreement, and as necessary, the State shall notify each known person or entity affected by termination, by first class mail, on or before the date the next payment is due, that it will no longer collect the taxes covered by this Agreement, and that the person or entity should no longer remit to it the affected Tribal tax or taxes.

**6. Amendments and Waiver**

This Agreement may not be modified or amended, nor may compliance with any provision of it be waived except by an instrument or instruments in writing signed by the party against whom enforcement of any modification, amendment, or waiver is sought.

**7. Exemption from Tax and Refunds**

Motor vehicle fuel and special fuel used in a vehicle owned or leased by the Tribe and used for governmental purposes shall be exempt from state motor vehicle fuel taxes and special

fuel taxes and corresponding Tribal taxes. Any tax paid on motor vehicle fuel or special fuel for such vehicle shall be refunded to the Tribe by the State.

**8. Notices and Payment**

**A. Notice**

Notice required to be sent to the Tribe under this Agreement shall be sent to:

Chairperson  
Turtle Mountain Band of Chippewa Tribe  
PO Box 900  
Belcourt, ND 58316

Notice required to be sent to the State under this Agreement shall be sent to:

North Dakota Office of State Tax Commissioner  
Motor Vehicle Fuels Tax and Special Fuels Tax Section  
600 East Boulevard Avenue  
Bismarck, ND 58505-0599

**B. Payment**

Payment required to be sent to the Tribe under this Agreement shall be sent to:

Office of Tribal Tax Director  
Turtle Mountain Band of Chippewa Tribal Tax Department  
PO Box 900  
Belcourt, ND 58316

Either party may change its Notice address by giving written notice of the change to the other party.

IN WITNESS WHEREOF, the Tribe and State have caused this Agreement to be executed and delivered by their respective officers, duly authorized.

6/4/10  
Date

Richard Marcellais  
Richard Marcellais, Chairman  
Turtle Mountain Band of Chippewa Tribe

5/28/2010  
Date

Cory Fong  
Cory Fong, Tax Commissioner  
State of North Dakota

This Agreement is approved under N.D.C.C. § 54-40.2-04.

8/16/2010  
Date

John Hoeven  
John Hoeven, Governor  
State of North Dakota