

The Master Settlement Agreement

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Master Settlement Agreement Background

- After decades of deception and misinformation, by the late 1990s the harm caused by cigarettes was well known. Many states sued major tobacco companies to recover Medicaid costs and damages caused by this uniquely deadly consumer product.
- In 1998, the Master Settlement was signed
 - 46 states, the District of Columbia, and 5 territories
 - Philip Morris, R.J. Reynolds, Lorillard, and Brown & Williamson
 - Now more than 40 Participating Manufacturers

Master Settlement Agreement Background

- States released Participating Manufacturers from liability for past and future claims for State incurred healthcare costs caused by smoking cigarettes in exchange for:
 - Annual payments in perpetuity based on nationwide sales volume
 - Significant restrictions on tobacco advertising and promotional activities
 - American Legacy Foundation (Truth Initiative) – national public health organization dedicated to ending tobacco use among youth and young adults

Master Settlement Agreement Payments

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- The MSA was the largest civil litigation settlement in U.S. history when it was signed in 1998.
 - 1999 MSA payment to the states totaled nearly 4 billion dollars.
 - From 1999 to 2022, the Participating Manufacturers have made MSA payments totaling \$152,856,277,210.76.
- Nevada
 - Nevada's allocable share of the annual MSA payment is 0.6%.
 - In total, Nevada has received \$975,560,319.78 in MSA payments.
 - Nevada's 2022 MSA payment was \$44,872,687.15.
- MSA payment
 - 40% to the Millennium Scholarship (NRS 396.926)
 - 60% to the Fund for a Healthy Nevada (NRS 439.620)

Non-Participating Manufacturers

- Parties to the MSA acknowledged that Participating Manufacturers' cigarettes would increase in price because of the required settlement payments, furthering the public health goals of the settlement.
 - Risk that Non-Participating Manufacturers could sell cheap cigarettes and take over market, undercutting objectives of the MSA
 - Non-Participating Manufacturer escrow deposits (NRS Chapter 370A)
 - 10 Non-Participating Manufacturers currently sell, and deposit escrow pursuant to NRS 370A, in Nevada
- NPM Adjustment
 - If the PMs have suffered a market share loss and the MSA was a significant factor in that loss, the States may be subject to the NPM Adjustment, a downward adjustment of their MSA payment. In 2022, the NPM Adjustment exceeded \$1.6 billion.
 - Only States that did not diligently enforce their escrow statutes are subject to the NPM Adjustment.
 - Settlement – Nevada settled the issue of diligent enforcement for sales years 2003 – 2022.
 - If an arbitration panel finds a State did not diligently enforce its escrow statutes, the State can lose a significant portion of its MSA payment.
 - Enforcement of NRS Chapter 370A is a shared responsibility between the Attorney General's Office and the Nevada Department of Taxation.

Tobacco Enforcement Unit

- In addition to MSA matters, the Attorney General's Office Tobacco Enforcement Unit enforces the state law prohibiting the sale of tobacco and vapor products to anyone under the age of 21 (NRS 370.521(1)).
 - Two law enforcement officers and six underage inspectors
 - Over 3,200 licensed tobacco retail dealers throughout the State
- Synar Inspections
 - Approximately 800 random inspections each year are Synar inspections
 - Nevada Substance Abuse Prevention and Treatment Federal Block Grant
 - FFY 2023 - \$18,578,267
 - If the Synar inspection retailer violation rate exceeds 20%, the State could face a penalty of 10% of the Block Grant.