Introduction

- Recent changes for Non-Participating Manufacturers (NPM’s) in Minnesota after Tobacco Settlement.
- NPM’s are Tobacco Companies that did not sign the Tobacco Settlement Agreement.
- Related background information for Tobacco Settlement and Trends/Issues.
Minnesota is one of only four states not part of the National Tobacco Settlement:

- Florida
- Minnesota
- Mississippi
- Texas

Minnesota had a separate settlement agreement prior to the national settlement.

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**Background for Tobacco Settlement**

- 46 states covered by Master Settlement Agreement (MSA)
- Payments made to states are subject to various adjustments
- MSA includes Model Statute provisions for NPM’s
  - requires escrow payments
  - promotes level playing field for prices
- Enforcement of Model Statute has been an issue
Recent Trends/Issues

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Market Share of &quot;Big Four&quot; Tobacco Companies</th>
<th>Market Share of Other Tobacco Companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>97.6%</td>
<td>2.4%</td>
</tr>
<tr>
<td>1999</td>
<td>96.4%</td>
<td>3.6%</td>
</tr>
<tr>
<td>2000</td>
<td>94.8%</td>
<td>5.2%</td>
</tr>
<tr>
<td>2001</td>
<td>92.9%</td>
<td>7.1%</td>
</tr>
<tr>
<td>2002</td>
<td>90.9%</td>
<td>9.1%</td>
</tr>
</tbody>
</table>

Tobacco Settlement Payments have been Less than Expected:

- Payments under MSA were over 10% less than projections for initial years.
- MSA volume reductions (based on sales by participating manufacturers) have increased.

2003 Legislative Issue

- Minnesota Tobacco Settlement
  - Includes Major Tobacco Companies only
  - No Provisions for NPM’s

- Cigarettes being shipped to Minnesota (non-MSA state) from which they later were shipped to other states; no NPM escrow requirements in Minnesota.

- Industry lobbied for cigarette sales to be tracked.
2003 Minnesota Legislative Session

- Enacted Fee on Sales of Non-Settlement Cigarettes
- Required Reporting of Cigarette Shipments from Minnesota to other States

Law Changes

Fee of 35 cents per pack added effective July 1, 2003:
- Affects cigarette sales except for major tobacco companies.
- Additional reporting requirements for distributors.

Cigarettes in interstate commerce reporting:
- Requires reporting for sales to other states of quantity, brand and recipient.

Other 2003 Cigarette Tax Law Changes:
- Required accelerated tax payments.
- Repealed tobacco tax discounts.
Potential Legal Issue with Fee

- Legal challenge to imposition
- Pending litigation as unconstitutional

Current Status

- Anti-smoking groups happy with price increase.
- Some distributors not happy with additional reporting requirements.