

Minnesota Fee on Non-Participating Manufacturers

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by

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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

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Recent Trends/Issues

| Calendar Year | Market Share of "Big Four" Tobacco Companies | Market Share of Other Tobacco Companies |
|---------------|--|---|
| 1998 | 97.6% | 2.4% |
| 1999 | 96.4% | 3.6% |
| 2000 | 94.8% | 5.2% |
| 2001 | 92.9% | 7.1% |
| 2002 | 90.9% | 9.1% |

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.

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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.

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2003 Minnesota Legislative Session

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

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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.

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Potential Legal Issue with Fee

- Legal challenge to imposition
- Pending litigation as unconstitutional

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Current Status

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

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