

# **NYS SETTLEMENT AGREEMENT** **SUPPLEMENTAL GUIDANCE**

*December 21, 2015*

## **DISCLAIMER NOTICE**

The following Supplemental NYS Tobacco Settlement Supplemental Guidance (the “Supplemental Guidance”) has been prepared and made available by the Office of the Attorney General of the State of New York (“OAG”) to help interested parties to better understanding aspects of the New York State Tobacco Settlement Agreement (the “NYS Settlement Agreement”), by and among the State of New York (the “State”) and the Participating Manufacturers listed in Appendix A hereto (collectively, the “Participating Manufacturers”) that became fully effective on October 16, 2015. The Supplemental Guidance supplements the OAG’s NYS Tobacco Settlement Guidance, dated November 23, 2015.

While OAG has posted this Supplemental Guidance on the Tobacco Settlement web page of the OAG website ([www.OAG.ny.gov](http://www.OAG.ny.gov)), there should be no implication by its posting that there have been no other developments with respect to the Master Settlement Agreement, the Participating Manufacturers, the Non-Participating Manufacturers, the Tobacco Settlement Revenues (“TSRs”) or any other tobacco settlement negotiations or discussions involving the State at any time subsequent to its release date. Maintenance of this Supplemental Guidance on the OAG website is not intended as a republication of the information contained therein on any date subsequent to its release date.

**This Supplemental Guidance is not intended to serve as disclosure for inclusion in any Preliminary Official Statement, Official Statement or other offering document and may not be included in a Preliminary Official Statement, Official Statement, or other offering document, or incorporated by reference therein. Furthermore, the information contained in this Supplemental Guidance shall not be considered to be continuing disclosure in connection with any prior offering of securities. Any such use, or incorporation by reference, of this Supplemental Guidance, or any portion thereof, in a Preliminary Official Statement, Official Statement, or other offering document or continuing disclosure filing is unauthorized and the OAG expressly disclaims any responsibility with respect to the inclusion, intended use, and updating of this Supplemental Guidance if so misused.**

**Cautionary Note:** *Investors of tobacco bonds and other interested parties are advised to rely only on figures/amounts stated in the NYS Settlement Agreement and not on press releases and other non-official sources of information relating to the NYS Settlement Agreement.*

QUESTION: What is the total amount expected to be distributed to the “NYS Tobacco Settlement Distributees” from the DPA?

ANSWER: As required by the NYS Settlement Agreement, the Independent Auditor has verified the amounts on deposit in the DPA as set forth in the following table:

<b>Participating Manufacturers</b>	<b>Amount to be Distributed*</b>
OPMs	\$671,258,518.13
SPMs	<u>46,398,031.30</u>
<b>Gross Distribution Total</b>	<b><u>\$717,656,549.45</u></b>

\* Estimated, plus accrued interest to the date of distribution. Settlement credits to the PMs will be credited toward their 2016 annual MSA payments.

QUESTION: When are the accumulated New York 2004-14 NPM Adjustment moneys expected to be disbursed from the DPA?

ANSWER: The disbursement of tobacco settlement funds from DPA will not take place during this calendar year as had been projected recently. Instead, disbursement of the accumulated 2004-14 NPM Adjustment moneys from the DPA is now expected to occur no later than April 2016, but may occur sooner as described below. The funds in the DPA are currently invested in Treasury Notes maturing on April 15, 2016, and the early liquidation of such investments in order to make DPA distribution by December 22, 2015 as had been recently projected, would result in a realization of a loss that could cost the State and the County TASCs close to \$1 million less than at maturity. In the event that general interest rates change favorably over the coming months so as to reduce the aggregate amount of realized loss to the State and County TASCs, the State would sell the Treasury Notes and disburse the funds in advance of the regular April 2016 payment of tobacco settlement revenues (“TSRs”). If the general interest rate environment does not improve so as to reduce or eliminate the realization of a loss on the Treasury Notes, then the disbursement of DPA funds will occur on or about the maturity date of the Treasury Notes. In such event, the OAG anticipates providing a breakdown of the portion of the April 2016 payments constituting (i) annual TSR payments and (ii) DPA payments, together with investment earnings for prior years.

QUESTION: For what time period has the percentage of cigarettes sold in the State on which State excise taxes (“SET”) have been paid but for which escrow was not deposited exceeded 1%?

ANSWER: Since 2003, the percent of State SET-paid cigarettes on which escrow was not deposited has never exceeded 1%.