

NYS SETTLEMENT AGREEMENT UPDATE

May 23, 2023

DISCLAIMER NOTICE

This Update is intended to notify interested parties of certain developments concerning the 2015 New York State Tobacco Settlement Agreement (“NYS Settlement Agreement” or “NYSA”), by and among the State of New York and the Participating Manufacturers (“PMs”) that became fully effective on October 16, 2015.

While OAG has posted this Update on the Tobacco Settlement web page of the OAG website (www.ag.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 “MSA”), the Participating Manufacturers, the Non-Participating Manufacturers, the Tobacco Settlement Revenues or any other tobacco settlement negotiations or discussions involving the State at any time subsequent to its release date. Maintenance of this Update on the OAG website is not intended as a republication of the information contained therein on any date subsequent to its release date.

This Update 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 Update 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 Update, 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 Update 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.*

Pursuant to the NYS Settlement Agreement, the Participating Manufacturers shall receive a credit against their annual payments based on the volume of “Tribal NPM Packs”¹ for each applicable sales year, starting in 2015. *See* NYSA § III.C.2.(a), (c).

For the 2019 sales year, the Independent Investigator determined that the volume of Tribal NPM Packs was 165.9 million. Per the terms of the Settlement Agreement, that 2019 Tribal NPM Pack figure was then applied to the 2020 sales year (*see* NYSA § III.C.2.(b)(vii)) and 2022 disbursement year (*see* NYSA § III.C.2.(d)).

For both the 2021 and 2022 sales years (i.e., 2023 and 2024 disbursement years, respectively), the State and PMs have stipulated that the figure representing the volume of Tribal NPM Packs will be 165.9 million. This figure is not an admission by either the State or the PMs as to (a) the actual volume of Tribal NPM Packs sold in New York during 2021 and 2022; or (b) the actual collection or non-collection of New York Excise Tax relating to any such actual sales of Tribal NPM Packs during 2021 and 2022.

¹ For purposes of the NYS Settlement Agreement, 20 Tribal NPM Cigarettes consist of one “Tribal NPM Pack.” NYSA § III(C)(1)(a); *see also* NYSA § I(O) for the definition of “Tribal NPM Cigarette.”