

# FYI – For Your Information

## Master Tobacco Settlement Agreement (MSA)

### GENERAL INFORMATION

#### What Is the Master Tobacco Settlement (MSA)?

In November 1998, 46 states, the District of Columbia and the five U.S. territories signed an agreement with the major tobacco companies to settle all state lawsuits seeking to recover the Medicaid costs of treating smokers. The Master Settlement Agreement (MSA), imposes certain restrictions on advertising, marketing and promotion of tobacco products. The MSA also requires tobacco product manufacturers to make payments totaling approximately \$206 billion through the year 2025.

The Master Settlement Agreement (MSA) with United States tobacco manufacturers was signed by the Colorado Attorney General on November 23, 1998 and a consent decree approved by the District Court for the City and County of Denver was entered on November 25, 1998. The Cigarette Tax Statute, Title 30, Article 28, was amended to include the mode statute of the MSA effective July 1, 1999.

As a result of the MSA, the Colorado Tobacco Escrow Funds Law was enacted. This law requires tobacco companies that are non-participating under the MSA, pay into a qualified escrow account based on sales of cigarettes and roll-your-own tobacco in Colorado. This law is intended to create reserve funds for non-participating manufacturers to pay future claims. This law applies to cigarettes and roll-your-own tobacco only.

For additional information regarding the Master Settlement Agreement you may visit the Web at <http://www.naag.org> and select "Tobacco Settlement Documents."

### MASTER TOBACCO SETTLEMENT STATE OBLIGATIONS

#### Participating and Non-Participating Manufacturers/Distributors

Under the MSA, participating states must identify non-participating manufacturers (NPM) and annually notify the NPM of their escrow obligation. Each NPM is required to establish an escrow account in a state or federal institution within the State of Colorado and certify the deposit of funds to the account based on the number of sticks or ounces of roll-your-own tobacco distributed in Colorado.

Distributors must identify the non-participating manufacturer brands within their cigarette and roll-your-own tobacco product lines. A list of participating manufacturers and brands covered under the MSA is maintained by the National Association of Attorney Generals. The list may be accessed at [www.naag.org](http://www.naag.org)

If NPM brands are distributed in Colorado by a Colorado licensed wholesaler/distributor for cigarettes and/or tobacco products, a DR 1285, "Licensed Distributor Reporting Form For Cigarette Sales of Non-Participating Manufacturer Brands" is required to be sent to the department monthly. Distribution information is submitted to the Colorado Department of



Colorado Department of Revenue  
Taxpayer Service Division  
1375 Sherman St.  
Denver, Colorado 80261

Forms and other services:  
(303) 238-FAST (3278)  
Assistance:  
(303) 238-SERV (7378)  
FuelTax: (303) 205-8205  
[www.taxcolorado.com](http://www.taxcolorado.com)

Revenue by licensed distributors who:

- place the Colorado tax stamp on the packs of cigarettes, and
- distribute roll-your-own tobacco for cigarettes and have paid the tobacco products tax directly to the department.

The DR 1285 may be obtained on the Web at [www.taxcolorado.com](http://www.taxcolorado.com) For more information on Cigarette and Tobacco Distributors see FYIs Excise 16 and Excise 17.

The report is due on the 20th day of each month and should be mailed to the Colorado Department of Revenue, Special Tax Accounting Section, 1375 Sherman St., Room 237, Denver, CO 80261 or faxed to (303)205-8215

**NOTE:** Failure to file the monthly reports may result in revocation of the cigarette and/or tobacco products license for a period of two years.

### ***Certified Products***

Manufacturers are required to certify their compliance with the department and the Department of the Attorney General to be listed on the Colorado Certified Brand Directory. To sell a brand of cigarettes on roll-your-own tobacco in Colorado, a completed DR 0231 "Tobacco Product Manufacturer Certification" must be submitted to the department and the Office of the Colorado Attorney General. Upon approval by the Office of the Attorney General, the brand will be listed on the Colorado Certified Brands Directory. The DR 0231 is available on the Web at [www.taxcolorado.com](http://www.taxcolorado.com)

The department maintains the list of brand names and their manufacturer and will provide the distributors a 3 calendar day notice before a brand is removed or "delisted." If a product is NOT listed or is removed from the list, it cannot be sold in Colorado. Such products will then be considered contraband and subject to confiscation.

In order to provide the notice to each distributor, a contact name and email address must be submitted to the department on Form DR 1285 or Form DR 1286. It is the distributor's responsibility to update the name and email address with the department.

### ***TOBACCO PRODUCT RETAILERS***

If you are a retailer licensed for tobacco products you are considered a distributor/wholesaler and the reporting and/or exemption requirements are applicable.

The information reported is subject to review by the Department of Revenue. Records must be maintained for four years.

### ***EXEMPTIONS***

Pursuant to Regulation 39-28-202, a distributor, retailer, or tobacco product license holder may be exempt from the monthly MSA reporting if the distributor:

- Distributes only brands of cigarettes or roll-your-own tobacco manufactured by the participating manufacturers of the MSA;
- Purchases stamped cigarettes and/or roll-your-own tobacco on which the tobacco products tax has been paid from another licensed Colorado wholesaler;
- Distributes only those tobacco products not subject to the MSA (any tobacco product that is not "roll-your-own" for cigarettes.)

If the distributor meets any of the preceding conditions, Form DR 1286 "Tobacco Distributor's Certificate For Exemption MSA/Non-Participating Manufacturer Brands" must be completed. The DR 1286 is effective the month the exemption certificate is signed and received by the department and is valid for a 12-month period. The original must be submitted to the department and a copy should be retained by the distributor.

The exemption becomes void when a distributor stamps and distributes cigarettes or roll-your-own tobacco for cigarettes that have been manufactured by a non-participating manufacturer under the MSA. The DR 1285 is required beginning with the first month the NPM brands are stamped for Colorado. A new exemption period will begin when the distributor files another certification.

**NOTE:** Failure to file the reports may result in revocation of the cigarette and/or tobacco products license for a period of two years.

### ***Other Cigarette and Tobacco FYIs***

FYI Excise 15 Cigarette and Tobacco Product Information for Retailers

FYI Excise 16 Cigarette Distributors – General Information

FYI Excise 17 Tobacco Products Distributors- General Information

FYI Excise 19 Credit for Taxes Paid on Cigarettes or Other Tobacco Products That Are Bad Debts

### ***E-SERVICES FOR BUSINESS***

The following services are accessible at [www.taxcolorado.com](http://www.taxcolorado.com) under "Online Services."

**Electronic Payment (EFT).** Businesses can make payments on the Internet or by telephone. Register to make Electronic Payment via our no-cost ACH debit service. See Form DR 5785 "Electronic Payment Authorization" to sign up.

**Sales Tax ZeroFile** - Safely and easily file a Colorado Sales Tax Return (Form DR 0100) for state and state-collected local sales tax when you have zero net sales (line 3 of form DR 0100) and no sales tax due. Any filing period type (monthly, quarterly, annually, and seasonal) is eligible. Retailers with only one location and with net sales of zero and no payment due may use this system. There is no need to send a paper form. Also available by calling (303) 205-TAX0 (8290).

**Sales Tax Account History** - Allows businesses to review their tax account payments back to December 2002. Users will need their account number to obtain a PIN for security purposes.

The following services are available on the Web under [www.taxcolorado.com](http://www.taxcolorado.com) "Sales Tax Information" as well as by telephone at (303) 238-FAST (3278):

**Local Sales Tax Rates** - A fast way to find sales tax rates for ANY local jurisdiction.

**Sales Tax License Verification** - Confirm whether a Colorado sales tax license or exemption certificate is valid. If you have a sales tax license or exemption certificate number, you can find this information quickly.

**Retailers' Sales Tax Rates** - Check on the sales tax rates at your specific business location(s).

### ***FURTHER INFORMATION:***

FYIs and commonly used forms are available on the Web at [www.taxcolorado.com](http://www.taxcolorado.com)

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.