THE TOBACCO MASTER SETTLEMENT AGREEMENT

In 1998, the Attorneys General of 46 states signed the Master Settlement Agreement ("MSA") with the four largest tobacco companies in the United States, Brown & Williamson, Lorrilard, Philip Morris, and R.J. Reynolds. The MSA and related documents can be found at the website for National Association of Attorneys General.

The MSA settled lawsuits by the states to recover costs associated with treating smoking-related illnesses. (Four states —Florida, Minnesota, Texas and Mississippi settled their tobacco cases separately from the MSA states). The MSA authorizes other tobacco product manufacturers to participate in the agreement, and since November, 1998, over forty additional tobacco companies have joined the MSA.

The MSA imposes restrictions on the advertising, promotion, and marketing or packaging of cigarettes, including a ban on "targeting youth," and requires the participating manufacturers to make payments to the MSA states on or before April 15 of each year for a period of 25 years. Over $40 billion has been paid to the Settling States to date, of which Nevada has received approximately $255 million.

In 1999 the Nevada Legislature approved two bills which determine how the tobacco settlement proceeds are distributed; Assembly Bill 474 and Senate Bill 496. Approximately 60% of the tobacco money goes towards health care programs, and 40% funds Nevada's Millennium Scholarship Program.

The MSA also contains provisions designed to ensure a source of recovery for the costs of treating smoking-related illnesses caused by cigarettes sold by tobacco manufacturers which are not bound by the MSA's marketing restrictions and which have no payment obligations. In order to accomplish this goal, the MSA states enacted legislation, generally referred to as "Model Escrow Statutes," requiring the non-participating manufacturers to annually deposit into a qualified escrow fund approximately 2 cents per cigarette sold based upon the preceding year's sales. Nevada's Model Statute is Chapter 370A of the Nevada Revised Statutes (NRS), and can be found on the website for Nevada Legislature, *Law Library, Nevada Revised Statutes*. The escrow fund is a fund against which an MSA state can recover any judgment or settlement the state may obtain based on claims against a non-participating manufacturer for costs arising out of smoking-related illnesses.

During the 2005 Nevada Legislative Session, the Nevada Legislature adopted Assembly Bill (AB) 436. The provisions of AB 436 compliment Nevada's Model Escrow Statute. AB 436 can be found on the website for Nevada Legislature, *2005 Session, Assembly Bills.*

AB 436 imposes several new requirements upon tobacco manufacturers that are not participants to the MSA. In addition, AB 436 requires the Nevada Department of Taxation to create a Tobacco Directory of all tobacco manufacturers selling cigarettes in Nevada. The Tobacco Directory will be posted on the website for Department of Taxation, on or before December 31, 2005.

On or before November 15, 2005, all tobacco manufacturers are required to execute and deliver to the Office of the Attorney General an Initial Certificate of Tobacco Product Manufacturer. Effective January 1, 2006, it will be unlawful for any person to affix a stamp to a package or other container of cigarettes of a manufacturer of tobacco products or brand family which is not included in the Tobacco Directory, or to sell or offer or possess for sale in Nevada cigarettes of a manufacturer of tobacco products or brand family not included in the Tobacco Directory. Click here to obtain an Initial Certificate of Tobacco Product Manufacturer form.