



State of Louisiana

DEPARTMENT OF JUSTICE

P.O. BOX 94005

BATON ROUGE

70804-9005

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

April 23, 2015

VIA EMAIL & FACSIMILE

Kristy Nichols
Commissioner of Administration
Louisiana Division of Administration
1201 N. Third Street, Ste. 7-210
Baton Rouge, LA 70802
Facsimile: (225) 342-1057

John N. Kennedy, State Treasurer
Louisiana Department of the Treasury
900 North Third Street, 3rd Floor State Capitol
Post Office Box 44154
Baton Rouge, Louisiana 70804
Facsimile: (225) 342-0046

RE: 2015 Tobacco Master Settlement Agreement Payment to the State of Louisiana

Dear Commissioner Nichols and Treasurer Kennedy:

The Louisiana Department of Justice has become aware of certain errors apparently on the part of the national accounting firm of PricewaterhouseCoopers ("PwC") to the 2015 tobacco Master Settlement Agreement ("MSA") payments made to the states, including Louisiana. In communications with the National Association of Attorneys General ("NAAG"), which serves as an intermediary between the MSA states and PwC, it has come to our attention that PwC in its role as the Independent Auditor tasked with calculating the annual MSA payments to the states, made significant errors in determining the 2015 annual MSA payments. Specifically, PwC appears to have underpaid approximately half the states and overpaid the remaining half. Louisiana is among those states receiving an overpayment.

Through continued discussions between NAAG and the states, it is apparent that Louisiana received an overpayment of approximately \$17 million—although there has not yet been a final calculation to determine the extent of PwC’s errors or Louisiana’s actual overpayment. NAAG is presently working with PwC to determine the extent of the errors, but cannot proceed until such time as PwC provides the states with a final calculation of payments. A chart reflecting the estimated overpayment is attached for your convenience. It is noted that the overage amount in the chart is only an estimate based upon data available as of the date of this correspondence, April 23rd. The final overpayment amount will be provided once the number has been determined by PwC and the states.

Based upon the information currently available, PwC—prior to actual disbursement—estimated Louisiana’s total MSA payment to be \$138,313,223.62. However, approximately \$155,603,695.80 was disbursed to Louisiana on April 15th and 17th. Because Louisiana is a securitized state, the securitized portion—or 60% of the 2015 payment—was electronically transferred into an account held by the Tobacco Settlement Finance Corporation (“TSFC”); therefore, the TSFC received a portion of the overpayment. It appears the TSFC received approximately \$93,362,217.48, and the remaining 40% of the 2015 payment, or \$62,241,478.32, was electronically transferred to the State of Louisiana, through the Treasurer. Based upon information received from the Office of the Treasurer, 75% of the amount transferred to the Treasurer would be deposited and credited to the Millennium Trust (\$46,681,108.73) and the remaining 25% would be deposited and credited to the Louisiana Fund (\$15,560,369.59) in accordance with state law.

There are limited options in how to rectify the error made by PwC, as it does not appear that the underpaid states—particularly those that are securitized—are able to wait until next year’s annual payment to be made whole. One of the options posed is for the states who received an overpayment to return the overage amount once there is confirmation of what that final amount is. At this time, there is still uncertainty as to what the exact over/underpayment amounts to the states are since the states have not yet received a final summary of payment distributions from PwC. In addition, we have been made aware that there may have been calculation errors that will likely need to be corrected to some extent prior to determination of what the appropriate disbursement amounts should have been. In discussions yesterday between our office and representatives of the Treasurer’s Office, Treasury has indicated they are taking appropriate measures to secure the overpayment to the state.

We hope to receive a final accounting from PwC in the coming days. In the interim, NAAG has asked the states that received overpayments to determine the status of the

funds received and advise whether states can return the overage. Please advise if you have a recommended course of action for Louisiana to proceed in this matter, so that we may relay the same to NAAG. In kindest regards, I remain

Sincerely,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY: 

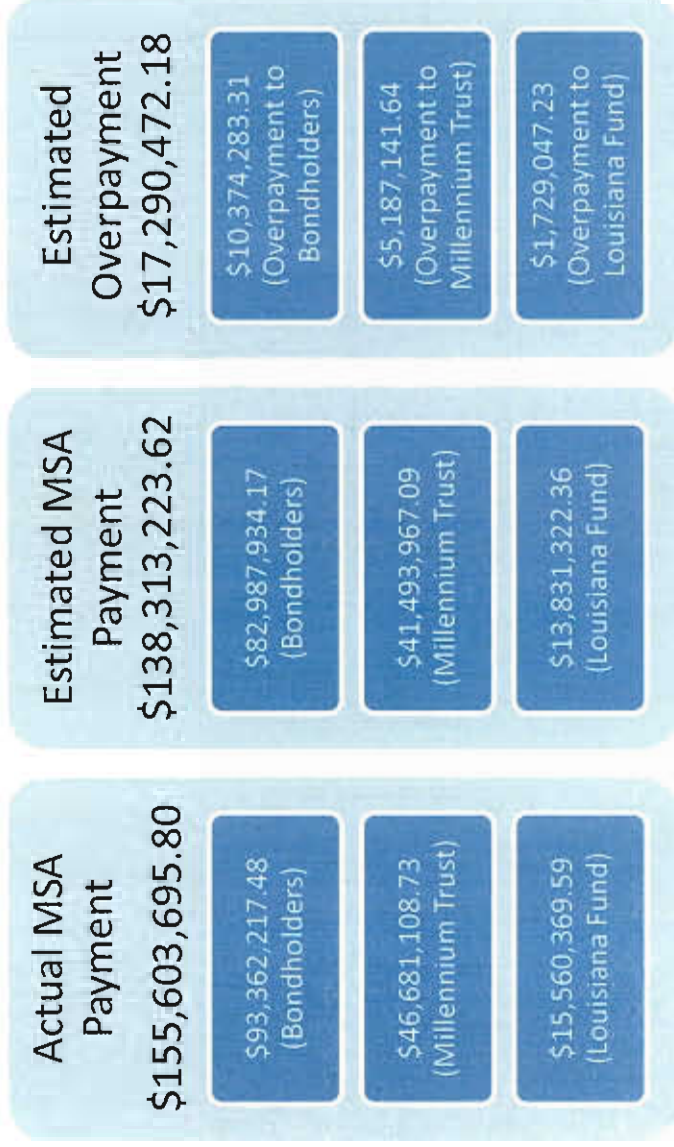
Gol Sheikivigeh Hannaman
Assistant Attorney General

Enclosure

cc: Thomas Enright, Executive Counsel, Office of the Governor
Ben Huxen, Executive Counsel, Division of Administration
Trey Phillips, First Assistant, Office of the Louisiana Attorney General
Laura Lapeze, Chief Financial Officer, Department of Treasury
John Carpenter, Legislative Fiscal Officer, Legislative Fiscal Office
Deborah Vivien, Economist/Fiscal Analyst, Legislative Fiscal Office
Richard McGimsey, Vice Chairman, Tobacco Settlement Finance Corporation
Sanettria "Sam" Pleasant, Director of Public Protection, Office of the Louisiana
Attorney General

ESTIMATED 2015 ANNUAL TOBACCO MSA OVERPAYMENT TO LOUISIANA

(Based upon data available as of April 23, 2015)



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¹ 60% of the annual MSA payment is allocated to satisfy Louisiana bondholder requirements. The remaining 40% is allocated between the Millennium Trust (which receives 75%) and Louisiana Fund (which receives 25%) to fund the TOPS Program, health care, education and enforcement of the MSA by the Attorney General.

² This chart provides an estimate of the potential overpayment of funds disbursed to Louisiana on April 15 and 17, 2015, and utilizes the estimated MSA payment amount provided by the Independent Auditor prior to the actual disbursement. It is noted that, due to potential calculation errors by the Independent Auditor, the estimated MSA payment amount may not represent the funds actually owed to Louisiana as part of the 2015 annual MSA payment.