§ 1399-oo. Definitions. As used in this article the following terms shall mean:

1. "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in exhibit C to the master settlement agreement.

2. "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the term "owns," "is owned" and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the term "person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

3. "Allocable share" means allocable share as that term is defined in the master settlement agreement.

4. "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains: (a) any roll of tobacco wrapped in any substance not containing tobacco, or (b) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this definition. The term "cigarette" includes "roll-your-own" (i.e., any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes). For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

5. "Master settlement agreement" means the settlement agreement (and

related documents) entered into on November twenty-third, nineteen hundred ninety-eight by the state and leading United States tobacco product manufacturers. A copy of said agreement, including any amendments thereto, shall be kept on file by the attorney general, who shall make it available for inspection and copying pursuant to the provisions of article six of the public officers law.

6. "Qualified escrow fund" means an escrow arrangement with a federally or state chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds' principal except as consistent with paragraph (b) of subdivision two of section thirteen hundred ninety-nine-pp of this article.

7. "Released claims" means released claims as that term is defined in the master settlement agreement.

8. "Releasing parties" means releasing parties as that term is defined in the master settlement agreement.

9. "Tobacco product manufacturer" means an entity that after the effective date of this article directly (and not exclusively through any affiliate):

(a) manufacturers cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer (as that term is defined in the master settlement agreement) that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsections II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States);

(b) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) becomes a successor of an entity described in paragraph (a) or (b) of this subdivision.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the provisions of paragraph (a), (b) or (c) of this subdivision.

10. "Units sold" means the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the state on packs bearing the excise tax stamp of the state, or on "roll-your-own" tobacco containers. The commissioner of taxation and finance shall promulgate such regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes and roll-your-own tobacco of such tobacco product manufacturer for each year. Notwithstanding any other provision of law, a failure of a cigarette tax agent or distributor licensed pursuant to section four hundred seventy-two of the tax law to provide any information required by such regulations shall be deemed a violation of the regulations of the commissioner of taxation and finance promulgated under article twenty of the tax law. Notwithstanding any provision of law to the contrary, the commissioner of taxation and finance shall provide to the attorney general any information necessary for the administration and enforcement of this article, including: (a) returns filed in accordance with article twenty or twenty-eight of the tax law (or any other provision of the tax law providing for an excise tax on cigarettes or roll-your-own tobacco); and (b) in the event the commissioner is unable to ascertain the identity of the applicable tobacco product manufacturer with respect to particular cigarettes or roll-your-own tobacco sold in the state, the number and brand names of such cigarettes or roll-your-own tobacco, the identity of the person from whom the excise tax on such cigarettes or roll-your-own tobacco was collected, and all other available information relating to such cigarettes or roll-your-own

tobacco, to be used by the attorney general to ascertain the identity of such tobacco product manufacturer and for the administration and enforcement of this article. Notwithstanding any provision of law to the contrary, the attorney general may redisclose any such information if necessary for the administration or enforcement of this article.