



ANNUAL ESCROW COMPLIANCE CERTIFICATE AND AFFIDAVIT (Nonparticipating Manufacturer)

GENERAL INFORMATION AND INSTRUCTIONS

What is a tobacco product manufacturer?

- Any entity that manufactures cigarettes, including roll-your-own (RYO), anywhere that such manufacturer intends to be sold in the United States including cigarettes or RYO that are intended to be sold in the United States through an importer;
- The first purchaser anywhere for resale in the United States of cigarettes or RYO manufactured anywhere that the manufacturer does not intend to be sold in the United States; or
- A successor or any entity described above.

Who is required to make escrow payments and file this Annual Escrow Compliance Certificate?

- Any tobacco product manufacturer which:
 - (1) sells cigarettes or RYO within the State of Oregon (whether directly or through any distributor, retailer, or similar intermediary); and
 - (2) has not become a participating manufacturer in the tobacco Master Settlement Agreement executed on 11/23/98 (the MSA) (i.e., a “nonparticipating manufacturer”).

What is a qualified escrow fund?

A non-participating manufacturer that is required to file this Escrow Compliance Certificate must establish a qualified escrow fund. This means an escrow arrangement with a U.S. federal or U.S. state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least \$1,000,000,000, where such arrangement (1) requires that the financial institution hold the escrowed funds' principal for the benefit of the State of Oregon (and possibly other “Releasing Parties” as defined in the MSA) and (2) prohibits the non-participating manufacturer from using, accessing, or directing the use of the funds' principal except as consistent with ORS 323.800, ORS 323.803, and ORS 323.806.

When are escrow payments due?

You must deposit all escrow payments into your qualified escrow fund on or before April 15th of the year following the sales year, unless the Attorney General directs you to make quarterly deposits pursuant to OAR 137-105-0020. *Use the Quarterly Escrow Compliance form if you are required to make quarterly deposits.*

What is the deadline for filing this Annual Escrow Compliance Certificate?

This Escrow Compliance Certificate is to be filed annually, on or before April 30th of the year following the sales year, unless the Attorney General directs the manufacturer to submit this form on a quarterly basis pursuant to OAR 137-105-0020. *Use the Quarterly Escrow Compliance form if you are required to make quarterly deposits.*

Where must this Annual Escrow Compliance Certificate be filed?

Mail the completed *original* Annual Escrow Compliance Certificate and all supporting documents to:

**Office of the Attorney General for the State of Oregon
Oregon Department of Justice
Civil Enforcement Division; Attn: Tobacco Enforcement
1162 Court Street, NE
Salem, OR 97301-4096**

What are the consequences if an NPM fails to comply?

According to Oregon law ORS 323.806, a tobacco product manufacturer may be subject to a civil penalty of up to 300% of the original amount improperly withheld from Escrow and be prohibited from selling cigarettes to consumers within the State of Oregon (whether directly or through a distributor, retailer or similar intermediary or intermediaries) for a period not to exceed two years.

SPECIFIC INSTRUCTIONS:

Part 1: Reporting Period. Write in the sales reporting period for which the escrow deposit is being made.

Part 2: Manufacturer's Identification. Write your name, address, telephone and fax number.

Part 3: Units Sold. Write the number of units of individual cigarettes and the amount of "roll-your-own" tobacco (.09 ounces constitutes one cigarette) manufactured by you and sold in Oregon during the reporting period. Make sure to include the total number of all units sold in Oregon during the reporting period. List all brand names sold during the reporting period.

Part 4: Escrow Rates and Payments. Determine the appropriate rate per cigarette for the sales reporting period.

Deposit Subtotal. Multiply the total number of all units sold (Part 3) by the appropriate rate (Part 4) for the sales reporting period and write the result as your subtotal. Enter the amount.

Inflation Adjustment. Calculate the appropriate inflation adjustment according to Exhibit C of the tobacco Master Settlement Agreement. **This inflation adjustment changes each year.** Published inflation figures are located at: www.doj.state.or.us.

Total Escrow Deposit Paid. **Add the subtotal and the inflation adjustment amount to arrive at the total deposit to be paid into your qualified escrow account for the applicable sales reporting period.**

Part 5: Financial Institution. Write the name and address of the financial institution holding your escrow account. Include your escrow account number. Also, write the total cumulative amount currently in your escrow account for the benefit of Oregon.

Part 6: Signature. An authorized notary public must also sign and date this Escrow Compliance Certificate.