



## 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 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 (“NPM”) 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.

The NPM and financial institution must execute a qualified escrow agreement that has been reviewed and approved by the Attorney General. ORS 180.415.

#### When are escrow payments due?

All quarterly escrow payments must be deposited into an NPM’s qualified escrow fund on or before the 15<sup>th</sup> day following the end of the quarter (e.g. April 15, July 15, October 15 and January 15). Any true-up payments required with the Annual Escrow Compliance Certificate are due on or before April 15 of the year following the end of the sales year at issue.

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

The Escrow Compliance Certificate is required to be filed quarterly and annually. The quarter escrow compliance certificate must be filed on or before the 10<sup>th</sup> day after the deadline for making quarterly

escrow deposits (e.g. April 25, July 25, October 25 and January 25). The annual escrow compliance certificate must be filed on or before April 30th of the year following the sales year.

### **Where must the Escrow Compliance Certificate be filed?**

Escrow Compliance Certificates and supporting documents should be submitted electronically to [TobaccoEnforcementBSR@doj.state.or.us](mailto:TobaccoEnforcementBSR@doj.state.or.us).

### **What are the consequences if an NPM fails to comply?**

Failure to deposit the correct amount into a qualified escrow account may result in civil penalties and/or remove from the Oregon Tobacco Directory. ORS 180.425, ORS 180.450, and ORS 323.806.

### **SPECIFIC INSTRUCTIONS:**

Part 1: Reporting Period. Mark the appropriate 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. List all brand names sold during the reporting period—it is not necessary to break down by brand style. Include the name and location of the distributor that sold the product during the reporting period and include the total number of units sold during the reporting period. If more than one distributor sold the same brand, include a separate line item from each distributor. Attach additional pages if necessary.

Part 4: Calculation of Deposit Amount. The form contains the inflation-adjusted escrow deposit rate for the designated sales year and should only be used for escrow deposits related to that year. If you need the escrow rate for a prior sales year, please contact our office at [ORDOJTobacco@doj.state.or.us](mailto:ORDOJTobacco@doj.state.or.us).

A. Units Sold Carry forward the total number of units sold from page 1.

B. Escrow Rate. This box contains the applicable deposit rate, adjusted for inflation.

C. Total Escrow Deposit Paid. Multiply Line A and B and enter the total deposit due for the reporting quarter.

Part 5: Financial Institution. Write the name and address of the financial institution holding your escrow account. Include your escrow account number and the total cumulative amount currently in your escrow account for the benefit of Oregon. Attach a copy of proof of deposit issued by your financial institution.

Part 6: Signature. An authorized representative must execute the certificate. If a notary public is not available, the authorized representative may use the alternative declaration on page 3.