

# State of Colorado

## Certificate of Compliance by Non-Participating Manufacturer Regarding Escrow Payment

### General Information

#### **What is the definition of a tobacco product manufacturer?**

- **Any entity that manufactures cigarettes, including roll-your-own, anywhere that such manufacturer intends to be sold in the United States, including cigarettes 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 manufactured anywhere that the manufacturer does not intend to be sold in the United States; or**
- **A successor of any entity described above.**

#### **Who is required to file this certificate of compliance?**

- Any tobacco product manufacturer that:
  - (1) sells cigarettes within the state of Colorado (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).

*If you satisfy these requirements, you must file this certificate of compliance to report the units of cigarettes manufactured by you and sold in the state of Colorado and pay the amount calculated into your qualified escrow fund.*

#### **What is a non-participating manufacturer?**

A non-participating manufacturer is any tobacco product manufacturer who has not signed onto the MSA. All non-participating manufacturers are required to file this Certificate of Compliance.

#### **What is a qualified escrow fund?**

A non-participating manufacturer that is required to file this certificate of compliance 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 USD \$1,000,000,000.00 where such arrangement (1) requires that the financial institution hold the escrowed funds' principal for the benefit of the State of Colorado (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 Colorado's Tobacco Escrow Funds Law (§ 39-28-203, C.R.S. (2001)).

#### **When is this certificate of compliance due?**

This certificate of compliance is to be filed on or before April 30th of the year following the sales year. The sales year is a calendar year from January 1 through December 31.

#### **When must I make my escrow payment?**

You must deposit all escrow payments into your qualified escrow fund on or before April 15th of the year following the sales year. After you have made your deposit, forward a copy of your receipt or other proof of deposit from your financial institution to the Office of the Attorney General of the State of Colorado, along with this signed and notarized certificate of compliance. In addition, after you have made your initial deposit into the qualified escrow fund, forward a copy of the escrow agreement as executed. Finally, forward any amendments to the escrow agreement.

#### **Specific Instructions:**

##### **Part 1: Manufacturer's Identification.**

Write your name, address, telephone and fax number.

##### **Part 2: Sales Year.**

Write the sales year.

##### **Part 3: Units Sold.**

Write the number of individual cigarettes and the amount of "roll-your-own" tobacco (.09 ounces constitutes one cigarette) manufactured by you and sold during the sales year in Colorado. Also include the brand names for which you are remitting an escrow payment. Provide sales or invoice documentation to support "units sold" figures. If you consider the information you are attaching to be a trade secret, or confidential commercial or financial data, you should mark the document(s) as such before you send it to this office.

##### **Part 4: Escrow Rates and Payments.**

Multiply the units sold by the appropriate rate for the sales year and write the result as your subtotal. 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 year.

##### **Part 5: Financial Institution.**

Write the name and address of the financial institution holding your escrow account. Include your escrow account number.

##### **Part 6: Escrow Deposit/Withdrawal History for Colorado**

Write in the date, deposit/withdrawal amount and balance for each transaction. Also write the total cumulative amount currently in your escrow account for the benefit of the State of Colorado.

##### **Part 7: Signature.**

An authorized notary public must also sign and date this certificate of compliance.

# Certificate of Compliance by Non-Participating Manufacturer Regarding Escrow Payment

Part 1: Manufacturer's Identification	
Name	
Address	
Phone	Fax
Email	Web Site Address

Part 2: Sales Year
The year of sales for the Certificate of Compliance is: _____ (Complete a separate certificate for each year of sales.)

Part 3: Units Sold (Attach Additional Sheets, if necessary)				
Indicate with an asterisk (*) those brands that will not be sold in 2014. The brands indicated with an asterisk (*) will be removed from the Colorado Certified Brands Directory the month following the receipt of the Certificate of Compliance for the 2013 year of sales.				
A. Brand Family*	B. Brand Name	C. Cigarette or RYO	C. Units Sold	D. Manufacturer

Part 4: Escrow Rates and Payments
<b>For Sales Year:</b>
<b>Total units sold during sales year:</b> _____ (for RYO divide ounces sold by .09)
<b>Documentation to support the "units sold," including but not limited to invoices, spreadsheets and sales statements, must be attached and filed with this Certificate of Compliance.</b>
<b>Escrow Rate:</b> for sales year 2013, the rate per cigarette is <b><u>\$0.0188482</u></b> .
<b>Escrow deposit subtotal:</b> \$ _____ (multiply total units sold by escrow rate)
<b>Inflation adjustment:</b> The appropriate inflation adjustment for sales year 2012 is <b>59.05486%</b> . For payments due April 15, 2014, multiply Escrow Deposit entered above by. \$ _____.
<b>Escrow deposit paid:</b> The total amount that has been paid into the qualified escrow fund by the manufacturer identified above for the sales year 2013 is \$ _____ (add deposit subtotal and inflation adjustment)
<b>A copy of your executed Escrow Agreement and any amendment to the Escrow Agreement, a current escrow account statement from the financial institution for the Colorado sub-account, and copies of your receipt or other proof of deposit from your financial institution, must be attached and filed with this Certificate.</b>

<p><b>Note:</b> The state of Colorado will not process incomplete or illegible certifications. Attach additional sheets as necessary to provide a complete response.</p>
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# Certificate of Compliance by Non-Participating Manufacturer Regarding Escrow Payment

## Part 5: Financial Institution

Name of Institution	
Address	
Representative Name	Telephone
Escrow Account Number	State Account Number

## Part 6: Escrow Deposit/Withdrawal History for Colorado

Date	Deposit	Withdrawal/Transfer	Balance

Total Amount Held for the State of Colorado

## Part 7: Signature

Under penalty of perjury, I declare that to the best of my knowledge, all of the information contained in this Certificate of Compliance is true and accurate. This Certificate of Compliance must also be signed and dated by an authorized notary public.

Name of Authorized Agent	Title
Signature of Authorized Agent	Date
Subscribed and sworn to before me on this date:	
Signature of Notary Public:	
City and/or County of:	My Commission Expires:

**Mail this certificate of compliance to:**

Colorado Department of Law  
Tobacco Settlement Enforcement  
Ralph L. Carr Colorado Judicial Center  
1300 Broadway, 7th Floor  
Denver, Colorado 80203  
Tobacco Settlement Enforcement Telephone (720) 508-6228

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