

State of Indiana

Certificate of Compliance by Non-Participating Manufacturer Regarding Escrow Payment

GENERAL INFORMATION

What is the definition of a tobacco product manufacturer?

- Any entity that directly manufactures cigarettes 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.

Any product containing the Surgeon General's warning is intended to be sold in the United States.

Who is required to file a certificate of compliance?

- Any tobacco product manufacturer that:
 - (1) sells cigarettes within the State of Indiana (whether directly or through any distributor, retailer, or similar intermediary) and
 - (2) has not become a participating manufacturer in the tobacco Master Settlement Agreement (the MSA).

If you satisfy these requirements, you must file a certificate of compliance to report the units of cigarettes manufactured by you and sold in the State of Indiana and pay the amount calculated into your qualified escrow fund. You may use this Model Certificate of Compliance to fulfill that obligation.

What is a qualified escrow fund?

A non-participating manufacturer required to file a 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 \$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 Indiana (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 Ind. Code § 24-3-3 et seq.

When is a certificate of compliance due?

Please file a certificate of compliance on or before April 30th of the year following the sales year.

In 2011, a certificate of compliance is due for sales made January 1 – December 31, 2010.

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 Indiana, along with a signed and notarized certificate of compliance.

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 manufactured by you and sold during the sales year in Indiana.

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. Calculate the appropriate inflation adjustment according to Exhibit C of the tobacco Master Settlement Agreement and enter the amount. 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. These rates and inflation adjustment rates can be found in Model Certificate of Compliance.

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 Indiana.

Part 6: Signature. -- An authorized notary public must also sign and date this certificate of compliance.

State of Indiana

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

Part 1: Manufacturer's Identification

Name: _____
Address: _____
Phone: _____ FAX _____

Part 2: Sales Year

The Year of Sales for this Certificate of Compliance is: *(Complete a separate certificate for each year of sales)*

Part 3: Units Sold in Indiana in 2011

- Quarter No. 1: Jan.1, 2011 – March 31, 2011 Quarter No. 3: July 1, 2011 – Sept. 30, 2011
 Quarter No. 2: April 1, 2011 – June 30, 2011 Quarter No. 4: Oct. 1, 2011 – Dec. 31, 2011

Number of individual cigarettes and “roll-your-own” tobacco (.09 ounces of roll-your-own is counted as a cigarette) sold in Indiana by the Manufacturer: *(See instructions for details.)* _____

Part 4: Escrow Rates and Payments

For the sales year: *(Use the rates listed below to figure the appropriate deposit subtotal amount)*
2003 - 2006 - The rate per cigarette is 0.0167539
2007 and thereafter - The rate per cigarette is.....0.0188482

The appropriate deposit subtotal is \$ _____
(Multiply units in Part 3 by the appropriate rate in Part 4)

The appropriate inflation adjustment for the sales year is \$ _____
*(multiply the greater of 3% or the CPI on the Inflation Adjustment Percentage applicable to payments due in the prior year. The inflation adjustment for the 2010 payment for 2009 sales is the subtotal times 41.31818%. The inflation adjustment for the 2011 payment for 2010 sales is the subtotal times 45.55773%. Refer to Exhibit C of the tobacco Master Settlement Agreement. **Because the actual inflation rate cannot be determined until the end of 2011, tobacco product manufacturers required to make quarterly escrow payments should use the inflation adjustment for the 2011 payment for 2010 sales. When the inflation rate for 2011 has been determined, manufacturers will be advised and then have until April 15, 2012, to deposit any additional money, if necessary, to satisfy the actual inflation amount.***

The total amount that has been paid into the Qualified escrow fund by the Manufacturer identified above for the sales year. *(add deposit subtotal and the inflation adjustment amount)* \$ _____

Note: **Please attach a copy of your current executed escrow agreement and for all deposits attach copies of your receipt or other proof of deposit from your financial institution.**

Part 5: Financial Institution

Name of Institution: _____
Address: _____
Escrow Acct No: _____
Total Amt. Held for the State of Indiana: _____

Part 6: Signature

Under penalties for perjury, I state that, to the best 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 or County of _____

My Commission expires: _____

Mail this certificate of compliance to:

**State of Indiana
Office of the Attorney General
Attn: TOBACCO ENFORCEMENT
302 West Washington Street
IGC-South, 5th Floor
Indianapolis, IN 46204**