



State of Tennessee
Office of the Attorney General and Reporter
Revenue Section
Tobacco Enforcement Division
Post Office Box 20207 Nashville, TN 37202-0207

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|------------------------|
| Certification Year: |
|------------------------|

Annual Certification Form for Listing on Tennessee's Directory

Pursuant to Tenn. Code Ann. §§ 67-4-2601 *et seq.*

Check appropriate response:

Initial Directory Certification Application - Tobacco Product Manufacturer is not currently listed on the Tennessee's Directory of Approved Tobacco Product Manufacturers.

Supplemental Directory Certification - Change of information provided to the Attorney General and the Department of Revenue (change of information must be submitted at least 30 days prior to change or no more than 30 days after discovery of inaccurate, incomplete or misleading information).

Reason: _____

Annual Directory Certification - Due April 30 for continuation of listing on Tennessee's Directory of Approved Tobacco Product Manufacturers.

Please type or legibly print in permanent **blue ink**. Use additional pages only when necessary.

Part 1. General Information

1. Applicant/Tobacco Product Manufacturer Identification (hereinafter "Applicant or "TPM").

| | |
|---|--------|
| Applicant Name: | |
| Contact Person: | Title: |
| Street Address: | |
| City/State/Zip: | |
| Mailing Address if different from above: | |
| City/State/Zip: | |
| Telephone Number (include country code): | |
| E-Mail Address: | FEIN: |
| Website Address: | |
| Name of Person Completing Certification: | |
| Title of Person Completing Certification: | |

2. The Tobacco Product Manufacturer identified above, as of the date of this Certification is:

A Participating Manufacturer

- OR -

A Non-Participating Manufacturer in full compliance with Tennessee Tobacco Manufacturers' Escrow Fund Act of 1999, Tenn. Code Ann. §§ 47-31-101 *et seq.*, including having made all required deposits into a Qualified Escrow Fund since the effective date of the Tennessee Tobacco Manufacturers' Escrow Fund Act of 1999 and any rules and regulations promulgated thereunder.

APPLICANT MUST ALSO COMPLETE EITHER THE PM OR NPM INFORMATION REQUEST FORM AND SUBMIT ALONG WITH THIS FORM.

3. Identify the attorney authorized to represent you regarding your Certification application for listing on the Tennessee Directory. If you do not have an attorney, please indicate "Not Applicable."

| | |
|-------------------|-------------------|
| Attorney Name: | __ Not applicable |
| Law Firm: | |
| Address: | |
| City/State/ZIP: | |
| Telephone Number: | |
| E-mail Address | |

4. Identify the person authorized to provide information to the State of Tennessee or receive information from the State of Tennessee regarding your Certification application for listing on the Tennessee Directory.

| |
|-------------------|
| Name and Title: |
| Company: |
| Address: |
| City/State/Zip: |
| Telephone Number: |
| Email Address: |

Part 2. Indian Tribe/Nation Affiliation

5. Please answer the following questions by placing an "X" in the box marked yes or no after each question:

- A. Is the Applicant a federal recognized Indian Tribe or Nation? Yes No
- B. Is the Applicant a legal entity formed under tribal law? Yes No
- C. Is the Applicant owned by a member(s) of an Indian Tribe or Nation? Yes No
- D. Does the Applicant have or make any claim of Tribal sovereign immunity? Yes No
- E. Is the Applicant owned in whole or in part by any government or government agency? Yes No
- F. Is the Applicant located on Tribal land? Yes No

If your answer to any of the questions above is “Yes”, please contact the Office of the Attorney General, Revenue Section, Tobacco Enforcement Division, P. O. Box 20207, Nashville, TN 37202-0207, to execute any required waivers of sovereign immunity to be listed and/or remain on the Directory of Approved Tobacco Manufacturers in Tennessee.

Part 3. Deliveries into Tennessee

- 6. Does Applicant advertise, offer for sale, sell, transfer or ship for profit cigarettes, roll-your-own ("RYO") tobacco, or smokeless tobacco into Tennessee through interstate commerce? Yes No

If the Applicant answered “Yes” to question 6, then the Applicant should answer “Yes” to questions 7 through 9.

If the Applicant answered “No” to question 6, then the Applicant does not need to file PACT Act reports. The Applicant should answer “No” to questions 7 through 9.

- 7. Has the Applicant filed a PACT Act Registration form with the TN Dept. of Revenue? Yes No
- 8. Has Applicant filed PACT Reports for all shipments into Tennessee? Yes No
- 9. Is the Applicant in compliance with the Prevent All Cigarette Trafficking Act (“PACT Act”)? Yes No

All Applicants MUST respond to both **questions 10 & 11.**
Failure to do so may result in your application to be listed on Tennessee’s Directory being denied.

- 10. Is the TPM the only entity shipping its tobacco products into Tennessee? Yes No
(In responding to question 10, please answer for every brand family listed in questions 19 and 20 of this Annual Certification Form for Listing on Tennessee’s Directory.)

11. If the TPM is NOT the only entity shipping its tobacco products into Tennessee (*the Applicant answered "No" to question 10 above*), please **list** the complete business name, business address, business telephone number, business email, contact person, contact person telephone number, and contact person email address of **every distributor/wholesaler/entity shipping** Applicant's tobacco products into Tennessee.

Part 4 Additional Information.

12. Is your company a non-participating manufacturer located outside of the United States? Yes No

13. Has your company, any of its affiliates, officers, directors, or owners ever pled guilty to guilty or nolo contendere to or been found guilty of a crime relating to the reporting, distribution, sale, or taxation of cigarettes or other tobacco products? Yes No

14. If you answered "Yes" to question 13, provide the name of the person(s) or entity, the crime, the jurisdiction in which this took place, and the date of the conviction or the plea.

15. Has your company or any of its affiliates ever been removed from any state's (or other political subdivision's) directory of approved tobacco product manufacturers? Yes No

16. If you answered "Yes" to question 15, identify the state(s) or political subdivision(s) and state the reason(s) for the removal.

17. Has any state, or other political subdivision, claimed that your company or any of its affiliates is escrow deficient for units sold in that state or political subdivision? Yes No

18. If you answered "Yes" to question 17, identify the state(s) or political subdivision(s), and state the nature of the escrow deficiency.

Part 5. Brand Family Identification (Attach additional sheets if necessary):

19. List all brand families currently on Tennessee's directory of approved product manufacturers.

20. List all brand families you request to be added to Tennessee's directory of approved product manufacturers.

21. List all brand families you request be removed from Tennessee's directory of approved product manufacturers.

22. If you are requesting that any brand family remain on Tennessee's directory of approved tobacco product manufacturers (1) that is currently on Tennessee's directory and (2) that has not been sold in Tennessee in either the preceding or the current calendar year, explain the reasons why you are requesting that the brand family remain on Tennessee's directory.

23. For each brand family listed in questions 19, 20, and 21, list the name and address of any other manufacturer who has fabricated the brand family since 1999 or is currently fabricating the brand family.

24. For each brand family listed in questions 19 and 20 respond to the following questions: ¹

BRAND FAMILY _____ (fill in name of brand family)

a. Was this brand family commercially marketed in the United States as of February 15, 2007? Yes No

If you answered "Yes" to 24(a) then please move on to your next brand family, Question 25.

If you answered "No" to 24(a) then please respond to 24(b).

b. Was this brand family substantially equivalent to a tobacco product that was commercially marketed in the United States as of February 15, 2007? Yes No

If you answered "Yes" to 24(b) then please move on to Question 24(c).

If you answered "No" to 24(b) then please respond to 24(d).

¹ For Questions 24 through 26 include **each brand family** listed in questions 19 & 20. This form contains spaces for three brand families. An additional page for additional brand families is available on the Tennessee Attorney General's website and can be printed as many times as necessary. Add any additional pages to the end of this form.

c. If you answered “Yes” to question 24(b), please identify the predicate brand family to which it is substantially equivalent, its trademark owner, and its fabricator as of February 15, 2007.

d. Is this brand family listed above in Question 24 undergoing premarket review and/or approval as a new tobacco product? Yes No

25. For each brand family listed in questions 19 and 20 respond to the following questions:

BRAND FAMILY _____ (fill in name of brand family)

a. Was this brand family commercially marketed in the United States as of February 15, 2007? Yes No

If you answered “Yes” to 25(a) then please move on to your next brand family, Question 25.

If you answered “No” to 25(a) then please respond to 25(b).

b. Was this brand family substantially equivalent to a tobacco product that was commercially marketed in the United States as of February 15, 2007? Yes No

If you answered “Yes” to 25(b) then please move on to Question 25(c).

If you answered “No” to 25(b) then please respond to 25(d).

c. If you answered “Yes” to question 25(b), please identify the predicate brand family to which it is substantially equivalent, its trademark owner, and its fabricator as of February 15, 2007.

d. Is this brand family listed above in Question 25 undergoing premarket review and/or approval as a new tobacco product? Yes No

26. For each brand family listed in questions 19 and 20 respond to the following questions:

BRAND FAMILY _____ (fill in name of brand family)

a. Was this brand family commercially marketed in the United States as of February 15, 2007? Yes No

If you answered “Yes” to 26(a) then please move on to your next brand family, Question 26.

If you answered “No” to 26(a) then please respond to 26(b).

b. Was this brand family substantially equivalent to a tobacco product that was commercially marketed in the United States as of February 15, 2007? Yes No

If you answered “Yes” to 26(b) then please move on to Question 26(c).

If you answered “No” to 26(b) then please respond to 26(d).

c. If you answered “Yes” to question 26(b), please identify the predicate brand family to which it is

substantially equivalent, its trademark owner, and its fabricator as of February 15, 2007.

d. Is this brand family listed above in Question 26 undergoing premarket review and/or approval as a new tobacco product? Yes No

27. Please complete the following chart. Attach Additional sheets if necessary.

| Brand Family Sold in TN in Preceding Calendar Year. | Units Sold in TN in Preceding Calendar Year. | Units Sold to Date in TN in Current Calendar Year. | Indicate with * if the Brand Is No Longer Sold in TN. | Name & Address of Other Manufacturer of Brand Family in Preceding or Current Calendar Year. | Year Brand Was Sold in TN. |
|---|--|--|---|---|----------------------------|
| | | | | | |

State of Tennessee
Annual Certification Form for Listing on Tennessee's Directory

Pursuant to Tenn. Code Ann. §§ 67-4-2601, *et seq.*

Affidavit of Tobacco Product Manufacturer

Please complete and execute in **blue permanent ink** and send signed originals to the two addresses listed at the end of the form.

NOTE: An authorized officer of the Tobacco Product Manufacturer **MUST** sign this form and check the correct box below. This form must also be notarized.

Under penalty of perjury, as of the date of this certification, I state that the Tobacco Product Manufacturer named in Part 1 is a Participating Manufacturer in full compliance with all applicable sections of Tenn. Code Ann. §§ 67-4-2601, *et seq.* and any rules and regulations promulgated thereunder. Participating Manufacturer affirms that the brand families listed in this certification are deemed to be its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year(s).

OR

Under penalty of perjury, as of the date of this certification, I state that the Tobacco Product Manufacturer named in Part 1 is a Non-Participating Manufacturer in full compliance with all applicable sections of Tenn. Code Ann. §§ 67-4-2601, *et seq.* and any rules and regulations promulgated thereunder. Additionally, the Tobacco Product Manufacturer identified in Part 1 fabricated or assembled the brand families listed herein that were sold in Tennessee during the calendar year stated herein. The Applicant Manufacturer affirms that the brand families listed on this certification application are its brand families for purposes of the Escrow Fund Act, Tenn. Code Ann. § 47-31-101, *et seq.*

Under penalty of perjury, I also state:

- (1) On behalf of the Tobacco Product Manufacturer named in Part 1, the Applicant is in compliance with and will continue to comply with all state and federal laws, as well as the rules and regulations regarding the sale of tobacco products and cigarettes in Tennessee, including but not limited to, the Tennessee Tobacco Manufacturers Escrow Act of 1999, Tenn. Code Ann. §§ 47-31-101, *et seq.* and the directory statute located at Tenn. Code Ann. §§ 67-4-2601, *et seq.*;
- (2) I understand that the Attorney General or the Department of Revenue may require additional information and/or documentation to determine if the Applicant qualifies for listing on Tennessee's Directory;
- (3) I acknowledge that the Applicant has a duty to file an annual Certification and to supplement its application within 30 calendar days of its discovery that any information or documents contained in the Certification is inaccurate, incomplete or misleading;
- (4) I have read this Certification and the attached documents, and reviewed the Instructions and Definitions and to the best of my knowledge and information, this Certification has been completed in compliance with those instructions and definitions;
- (5) To the best of my knowledge, this Certification and its attachments are a complete, accurate, non-misleading and truthful response of the Applicant Tobacco Product Manufacturer;

- (6) On behalf of the Applicant, I hereby authenticate this Certification and its attachments for the purposes of any proceedings pursuant to any rules of procedure. These documents are authentic and true and accurate copies of Applicant's official records. The Applicant will not contest or object to the use of this Certification and its attachments in any proceeding; and
- (7) I am an authorized representative of the Applicant Tobacco Product Manufacturer with authority to bind the Applicant and submit this Certification to the State of Tennessee on its behalf.
- (8) I acknowledge that if this Certification and its attachments are not a complete, accurate, non-misleading and truthful response of the Applicant Tobacco Product Manufacturer, the Applicant Tobacco Product Manufacturer may be denied listing on or may be removed from Tennessee's Directory.

By signing this Affidavit on behalf of the Applicant, I am stating I have the necessary authority on behalf of the Applicant to sign this Affidavit and bind the Applicant.

Manufacturer Certification:

Under penalty of perjury, I state that all of the information contained in this Certification and any attached documents are true and correct. This document must be signed and dated by an authorized notary public.

Authorized Designee (Print Name)

Title

Signature of Authorized Designee

Date

Subscribed and sworn to before me on this
____ day of _____, in the County
of

Signature of Notary Public

Commission Expires

Mail the Annual Directory Certification application and either the PM or NPM Information Request form to both addresses shown below:

State of Tennessee
Office of the Attorney General and Reporter
Revenue Section
Tobacco Enforcement Division
Post Office Box 20207
Nashville, TN 37202-0207

Tennessee Department of Revenue
Andrew Jackson Building
Taxpayer Services, 8th Floor
500 Deaderick Street
Nashville, TN 37242