

<b>Sales Year:</b>  
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**State of Tennessee**  
**Office of the Attorney General and Reporter**  
**Revenue Section**  
**Tobacco Enforcement Division**  
**Post Office Box 20207**  
**Nashville, TN 37202-0207**  
**Non-Participating Manufacturer**  
**Annual Certification of Escrow Compliance**

Please type or legibly print in permanent [blue ink](#) (This form may be filled out on-line. However, all signatures must be executed in permanent [blue ink](#).)

**Part I: General Tobacco Product Manufacturer Information**

Applicant name: _____
Street Address: _____
City/State/Zip/Country: _____
Mailing Address (if different from above): _____
City/State/Zip/Country: _____
Telephone number: _____ Email: _____
Website address: _____
Name of Person Completing Certification: _____
Title of Person Completing Certification: _____

1. If applicable identify by name, address, telephone number and e-mail address the attorney authorized to represent you regarding your Certification of Escrow Compliance. (Attach additional sheets if necessary.)

Name:	
Firm:	
Address:	
Phone Number:	E-mail Address:

- 2. Identify by name, title, address, telephone number and e-mail address the person authorized to provide information to the State of Tennessee or receive information from the State of Tennessee regarding your Certification of Escrow Compliance. (Attach additional sheets if necessary)

Name:	Title:
Address:	
Phone Number:	E-mail Address:

- 3. Does the **Applicant** on page 1 manufacture<sup>1</sup> the cigarettes listed in this document?  Yes  No
- 4. If, after reviewing the Tobacco Product Manufacturer definition (*see, f.n. 1*) you answered “Yes” to Question 3 above, then the Applicant on page 1 is the Tobacco Product Manufacturer (“TPM” [*see, f.n. 1*]). Check  Yes to AGREE or  No to DISAGREE.

**If you answered YES to Questions 3 and 4, please respond to Questions 5, 6 and 8.  
If you answered NO Questions 3 and 4, please skip to Questions 6, 7 and 8.**

- 5. Does the TPM intend to sell the cigarettes listed in this document in the United States (this includes sales through an importer(s)).  Yes  No
- 6. Is the TPM “the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the TPM does not intend to be sold in the United States.” See Tenn. Code Ann. § 47-31-102 (9)(A)(ii).  Yes  No
- 7. If the Applicant answered “No” to questions 3 and 4 then identify each TPM as follows: (a) the TPM’s full name; (b) TPM’s plant street address; (c) TPM’s mailing address; (d) TPM’s contact person; (e) TPM’s telephone number; and (f) describe in detail the relationship of the TPM to the applicant. In addition (g) provide a copy of every agreement or contract between the applicant and each TPM and attach them hereto. Label this attachment, “Certification of Escrow Compliance Ex. 7 (g).” Also (h) identify the location of the transfer of ownership of Cigarettes. (*Attach additional sheet(s), as necessary, to complete the response.*)

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- 8. If the Applicant answered “Yes” to question no. 6 identify each TPM: TPM’s full name; the TPM’s plant address; the TPM’s mailing address; the TPM’s contact person; the TPM’s telephone number; and describe in detail the relationship of the TPM to the applicant. (*Attach additional sheet(s), as necessary.*)

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<sup>1</sup> Tobacco Product Manufacturer is defined in Tenn. Code Ann. § 47-31-102(9) and the Master Settlement Agreement § II(uu). When filling out the Annual Certification of Escrow Compliance form “Manufacturer” also refers to Non-Participating Manufacturer.

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9. Is the Applicant a successor of any entity described in questions no. 3 or no. 4 above (i.e., tobacco product manufacturer or first importer).  Yes  No

10. If Applicant answered “NO” to question 3,4 and 6 explain, in detail, the basis for Applicant’s claim that it is a Tobacco Product Manufacturer as defined by Tenn. Code Ann. § 47-31-102(9) and submit all documents supporting Applicant’s contention. (*Attach additional sheet(s), as necessary, to provide a complete response.*)

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**Part II: Non-Participating Manufacturer Qualified Escrow Account Information**

The Non-Participating Manufacturer certifies that as of the date of this Certificate, the Manufacturer:

11. Has established and continues to maintain a Qualified Escrow Fund;  Yes  No

12. Has executed a Qualified Escrow Agreement that has been reviewed and approved by the Attorney General for the State of Tennessee;  Yes  No

*Please note the Model Escrow Agreement is available on the Tennessee Attorney General’s website at <http://www.tn.gov/attorneygeneral/tob/pdf/escrowagreement.pdf>*

13. Has submitted to the Attorney General for the State of Tennessee a Qualified Escrow Agreement that is identical to the one provided on the Tennessee Attorney General’s Website.  Yes  No

*If you answered “No” to #12, please go to the Tennessee Attorney General’s website above, print the model escrow agreement, and have the tobacco products manufacturer and the bank holding the tobacco products manufacturer’s escrow account execute the model escrow agreement. Attach a fully executed copy of the model escrow agreement to the completed Annual NPM Request for Information.*

14. **Financial Institution information:**

Name of Institution:	
Representative Name/Title:	
Street Address:	
City/State/Zip Code:	
Escrow Acct. #:	Sub-Acct. # For Tennessee:
Telephone Number:	Facsimile Number:
E-mail Address of Bank Representative:	

**15. Escrow Calculation and Deposit for Sales in Tennessee for Calendar Year 2022:**

Total NPM units certified in 1<sup>st</sup> quarter: \_\_\_\_\_ Deposit: \_\_\_\_\_

Total NPM units certified in 2<sup>nd</sup> quarter: \_\_\_\_\_ Deposit: \_\_\_\_\_

Total NPM units certified in 3<sup>rd</sup> quarter: \_\_\_\_\_ Deposit: \_\_\_\_\_

Total NPM units certified in 4<sup>th</sup> quarter: \_\_\_\_\_ Deposit: \_\_\_\_\_

TOTAL NPM units for all quarters: \_\_\_\_\_ Amount Deposited: \_\_\_\_\_

**Step 1:** Total NPM units sold (Cigarettes & RYO) during **prior calendar year** (Note: Convert RYO oz. by dividing by 0.09) (Total sold from January through December 2022.)

1 \_\_\_\_\_

**Step 2:** The appropriate rate per cigarette rate for the reporting year 2022 (Contact Tobacco Enforcement Division for prior year rates).

2 X 0.0188482

**Step 3:** Multiply Total NPM sales in Step 1 by Step 2.

3 \_\_\_\_\_

**Step 4:** Multiply Step 3 by the inflation adjustment percentage for 2022:

4 X 2.2289621

**Step 5:** This is the total amount that should be held in escrow for 2022 sales.

5 \_\_\_\_\_

**Step 6:** Amount already deposited in escrow (use ending balance from chart on page 5 of 7):

6 \_\_\_\_\_

**Step 7:** Subtract **Step 6** (what has already been deposited for all quarters in 2022) from **Step 5** (total amount of escrow due for 2022 sales). This is the additional amount that should have been deposited into escrow. Attach a letter from the bank (or provide other proof) which verifies such deposit has been made.

7 \_\_\_\_\_

**Proof of deposit or receipt is required from the financial institution at which the escrow account exists.**

15. Sales Year **2022** Escrow Deposit/Withdrawal History for the State of Tennessee (attach additional sheets, if necessary): withdrawals must comply with Tenn. Code Ann. §§ 47-31-101 *et seq.*, and any rules and regulations promulgated thereunder. Verification of compliance must be provided.

Date	Deposit	Withdrawal	Balance
	<b>Total:</b>	<b>Total:</b>	<b>Total:</b>

16. The TPM’s Financial Institution specified in Part II, question 14 is required to provide documentation of all escrow deposits made by the TPM into Tennessee’s segregated sub-account for stated sales year and a current account ledger of the TPM’s segregated sub-account for Tennessee directly to the Tobacco Enforcement Division of the Tennessee Attorney General’s Office. Please indicate below if the TPM’s Financial Institution provided this required documentation to the Tobacco Enforcement Division.

- A. Did the TPM’s Financial Institution provide proof of the amount and date of all deposits to Tennessee’s segregated sub-account for the stated sales year directly to the Tobacco Enforcement Division of the Tennessee Attorney General’s Office? \_\_\_ Yes \_\_\_ No
  
- B. Did the TPM’s Financial Institution provide a current account ledger of the TPM’s segregated sub-account for Tennessee directly to the Tobacco Enforcement Division of the Tennessee Attorney General’s Office? \_\_\_ Yes \_\_\_ No

**NOTE: These items are part of the certification and are due no later than April 30, 2023.**

**Part III: General Manufacturer Information.**

17. The TPM should respond to each of the following with a “Yes” or “No”:
- A. Were any of the TPM’s brand families were sold in Tennessee during the preceding calendar year? \_\_\_ Yes \_\_\_ No
  - B. Did the TPM deposit the required amount of escrow pursuant to Tennessee’s Escrow Fund Act, Tenn. Code Ann. §§ 47-31-103, *et seq.* and any rules and regulations promulgated thereunder in the preceding calendar year? \_\_\_ Yes \_\_\_ No
  - C. Tobacco product manufacturer made escrow deposits in the preceding year pursuant to Tennessee’s Escrow Fund Act: \_\_\_ Yes \_\_\_ No
  - D. Has the TPM changed any of its Brand Families listed in this Certificate within the past two calendar years? \_\_\_ Yes \_\_\_ No
  - E. Has there has been a change in the tobacco product manufacturer listed in this Certificate within the past two calendar years? \_\_\_ Yes \_\_\_ No
  - F. Did the TPM fully complete and timely file all the required forms and documents required by the Tennessee Escrow Statute? \_\_\_ Yes \_\_\_ No

**Part IV: Signature and Verification of Tobacco Product Manufacturer.**

**Under penalties of perjury and falsification, the tobacco product manufacturer hereby states and swears that:**

- (A) The TPM named herein complies with, and will continue to comply with all state and federal laws, 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, Tenn. Code Ann. §§ 67-4-2601, *et seq.* and any rules and regulations promulgated thereunder;
- (B) The TPM identified in Part I manufactured, as defined in Tenn. Code Ann. § 47-31-102(9), all units sold herein that were sold in Tennessee during the calendar year stated above;
- (C) As the TPM’s Authorized Designee, I have read this Certificate of Escrow Compliance, the attached documents, and the Instructions and Definitions, and state this Certificate has been completed in Compliance with all these documents;
- (D) As the TPM’s Authorized Designee, I further state that this Certificate of Escrow Compliance and its attachments are a complete, accurate, definitive, not misleading, and the truthful response of this TPM;
- (E) On behalf of the TPM, I hereby authenticate this Certificate of Escrow Compliance 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 the TPM’s official records. The TPM will not contest or object to the use of this Certificate of Escrow Compliance and its attachments in any proceeding;
- (F) The TPM understands that the Attorney General or the Department of Revenue may require additional information and/or documentation including, but not limited to, documentation to determine if the TPM qualifies for listing on Tennessee’s Directory;

- (G) The TPM acknowledges that it has a duty to file an annual Certification, an annual NPM Information Request, and to revise any document within 30 calendar days of discovery that any information contained in the Certification, the NPM Information Request, or any information contained in any documents attached to either the Certification or the NPM Information Request is inaccurate, incomplete, or misleading; and
- (H) I am an authorized representative of the TPM with authority to bind the TPM and submit this Certificate of Escrow Compliance to the State of Tennessee on the TPM's behalf.

<b>Manufacturer Certification</b>	
Under penalty of perjury, I state that all 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.	
_____	_____
NPM (Manufacturer) Authorized Designee (Print Name)	Title
_____	_____
Signature of NPM (Manufacturer) Authorized Designee	Date
Subscribed and sworn to before me on this _____ day of _____, in the County of _____, in the State of _____.	
_____	_____
Signature of Notary Public	Commission Expires

**Mail to:**

**State of Tennessee  
Office of the Attorney General  
Revenue Section  
Tobacco Enforcement Division  
P.O. Box 20207  
Nashville, TN 37202-0207**