

# 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 must 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: Liability Reporting Period.**

Check the appropriate boxes.

### **Part 2: Manufacturer's Identification.**

Write your name, address, telephone and fax number.

### **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 Rate and Payments.**

Use the table to calculate the total amount to be deposited into escrow for the liability period. Attach proof of deposit(s) from your financial institution. Proof must include the account number of the Colorado sub-account, the date of deposit, and the amount of deposit. Such proof can be submitted as a letter from the bank.

### **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: Liability Reporting Period

The liability period for this affidavit is:  
(check one year and one period)

**2023**

**2024**

Jan-Mar  
Due Apr 30

Apr-Jun  
Due Jul 31

Jul-Sep  
Due Oct 31

Oct-Dec  
Due Jan 31

Annual

Type of Affidavit: (check one)

Original

Amended

### Part 2: Manufacturer's Identification

Name	
Address	
Phone	Fax
Email	Web Site Address

### Part 3: Units Sold (Attach Additional Sheets, if necessary)

Indicate with an asterisk (\*) those brands that will not be sold. The brands indicated with an asterisk (\*) will be removed from the Colorado Certified Brands Directory the month following the receipt of this Certificate of Compliance.

A. Brand Family	B. Brand Name	C. Cigarette or RYO	D. Units Sold	E. Manufacturer

### Part 4: Escrow Rates and Deposits

**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.**

1 Total ounces of RYO sold during liability reporting period	<b>1</b>	
2 RYO conversion rate to unit sold	<b>2</b>	.09
3 Total RYO units sold during liability reporting period (multiply line 1 by line 2)	<b>3</b>	
4 Total cigarette units sold during liability reporting period	<b>4</b>	
5 Total units sold during liability reporting period (add line 3 and line 4)	<b>5</b>	
6 Escrow Rate per unit sold	<b>6</b>	\$0.0188482
7 Escrow subtotal (multiply line 5 by line 6)	<b>7</b>	\$
8 Inflation Adjustment Rate is 130.36796%	<b>8</b>	1.3036796
9 Inflation Adjustment Amount (multiply line 7 by line 8)	<b>9</b>	\$
10 Escrow deposit (add line 7 and line 9)	<b>10</b>	\$

A current escrow account statement 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 of Compliance.

**Note: The State of Colorado will not process incomplete or illegible certifications. Attach additional sheets as necessary to provide a complete response.**

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

<b>Part 5: Financial Institution</b>			
Name of Institution			
Address			
Representative Name			Phone
Escrow Account Number			State Account Number
<b>Part 6: Escrow Deposit/Withdrawal History for Colorado</b>			
Date	Deposit	Withdrawal/Transfer	Balance
<b>Part 7: Signature</b>			
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:	
<b>Email this Certificate of Compliance to:</b> Tobacco.Enforcement@coag.gov			
<b>Note: The State of Colorado will not process incomplete or illegible certifications. Attach additional sheets as necessary to provide a complete response.</b>			