

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?

Certificates of compliance are due on or before April 30th of the year following the sales year.

In 2021, a certificate of compliance is due April 30th for sales made January 1 – December 31, 2020.

If you are required to make quarterly payments, certificates of compliance are due no later than 30 days after the end of the quarter.

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.

If you are required to make quarterly escrow payments, payments are due no later than 30 days after the end of the quarter.

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 per-stick rate (adjusted for inflation) for the sales year and write the result as your subtotal. These rates and inflation adjustment rates can be found in the 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: _____ (please contact our office if you are certifying for a year other than 2021)

Part 3: Units Sold in Indiana in 2021

- | | |
|---|---|
| <input type="checkbox"/> Quarter No. 1: Jan.1, 2021 – March 31, 2021 | <input type="checkbox"/> Quarter No. 3: July 1, 2021 – Sept. 30, 2021 |
| <input type="checkbox"/> Quarter No. 2: April 1, 2021 – June 30, 2021 | <input type="checkbox"/> Quarter No. 4: Oct. 1, 2021 – Dec. 31, 2021 |

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: _____

Part 4: Quarterly Escrow Payment Amount

The appropriate deposit subtotal is \$ _____
(Multiply units sold in Part 3 by 0.0379765 and write that amount here)

Indiana Code §24-3-3-2 requires payments to be “adjusted for inflation,” in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.” Each year, this figure increases 3% or the actual inflation rate, whichever is greater. Because the actual inflation rate cannot be determined until the end of 2019, tobacco product manufacturers required to make quarterly escrow payments will be required to deposit an amount that has been cumulatively adjusted for inflation by 3%. When the adjusted for inflation rate for 2021 has been determined, manufacturers will be advised and then have until April 15, 2022, to deposit any additional money, if necessary, to satisfy the actual adjusted for inflation amount under the Act.

The 2022 payment for the 2021 sales is the cumulative adjusted for inflation rate, increased by 3%, is 101.48596%. Multiplying the base escrow deposit amount, \$.0188482, by the cumulative adjusted for inflation rate 101.48596%, equals the cumulative inflation adjustment amount of \$.0191283. Adding the base escrow deposit amount, \$.0188482, to the cumulative inflation adjustment amount, \$.0191283, equals \$.0379765.

Part 5: Financial Institution

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

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 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:

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