

2002 Georgia Certificate of Nonparticipating Cigarette Manufacturer Regarding Escrow Payment

Part 1: Manufacturer's Identification

Name: _____
Street address: _____
City, state, country, ZIP: _____
Telephone number: _____
Electronic mail address: _____
Name of contact person: _____
List all of your brands: _____

Part 2: Liability Year

The liability year for this certificate is 1 January 2002 through 31 December 2002.

Part 3: Units Sold

The number of your individual cigarettes sold in Georgia in 2002 is as follows: _____.

Part 4: Calculating the Deposit Amount

Follow these steps to calculate the appropriate amount to be deposited for the liability year 2002:

- (a) Enter the number from Part 3 above: _____
- (b) Multiply that amount by the .0153785, which is the
combined 2002 Base Amount and Inflation Adjustment: \times .0153785
- (c) Enter the total here: _____

The amount that must be deposited on or before 15 April 2003 for the liability year 2002 will be the amount shown in Line 4(c).

Part 5: Amount of Deposit for Liability Year 2002

The amount you deposited into your qualified escrow account for the liability year 2002 was:

\$ _____

Note: Attach a copy of your receipt or other proof of deposit from your financial institution.

Part 6: Financial Institution Holding Escrow Account

Name: _____
Street address: _____
City, state, country, ZIP: _____
Escrow account number: _____

Total amount held for Georgia as of the date of this certificate: \$ _____

Note: If you have not already sent us a copy of your escrow agreement, please attach a copy of your escrow agreement with your financial institution.

Part 7: Signature

Under penalties of perjury, I state that, to the best of my knowledge, all of the information contained in this certificate is true and accurate. This document must be signed and dated by an authorized notary public.

Sworn to and subscribed before
me this ___ day of _____, 2003.

Print the name and title of authorized agent here

Signature of Notary Public

Signature of authorized agent

Date

City / State: _____

MAIL THIS CERTIFICATE TO:

My commission expires _____ / _____ /20 _____

Consumer Interests Section
Georgia Department of Law
40 Capitol Square, SW
Atlanta, Georgia 30334-1300

15 March 2003

NOTICE

TO: All Non-Participating Tobacco Manufacturers
FROM: Sidney R. Barrett, Jr., Senior Assistant Attorney General

Facsimile:
404.656.0677
Email:
Sid.Barrett
@law.state.ga.us

Reports of tobacco product sales to the Georgia Department of Revenue show that cigarettes manufactured by your company were sold in Georgia during 2002, and that your company has not signed the Master Settlement Agreement dated 23 November 1999. Accordingly, your company is required under Georgia law, OCGA § 10-13-1 *et seq.*, to do the following:

- 1. Set up a qualified escrow account.** The escrow account must be set up in a federally or state-chartered financial institution that is not affiliated with any tobacco manufacturer and has assets of at least \$1 billion. The escrow account must be based on a written escrow agreement that requires the principal amounts deposited in the account to be held for 25 years, or until they are needed to satisfy a judgment in favor of any “released party” under the terms of the Master Settlement Agreement, whichever happens first. The agreement must also provide that you cannot use or pledge the principal amounts deposited in the account. You may receive any interest earned on the account. The escrow agreement must be approved by the Attorney General.
- 2. Make deposits into that escrow account for your Georgia sales.** Every year, by April 15, you are required to deposit a certain amount into your escrow account. The formula for calculating this amount is based on the sales of your product in Georgia, and certain other figures that are established by law and revised each year. We will provide you with the formula and all necessary figures prior to April 15.
- 3. File certification of your compliance with the law.** Every year, by April 15, you are required to sign and file with us a certificate stating the number of your cigarettes sold in Georgia for the previous year, and verifying the amount of the required escrow deposit for the year. Proof of the deposit must also be attached. The form for 2002 is enclosed. If your products have been sold in Georgia since 28 April 1999, then you must complete and return this certification, *even if you had no sales in 2002.*

Failure to comply with these requirements can result in substantial civil penalties, including a court order prohibiting your company from selling cigarettes in Georgia for up to two years. See OCGA § 10-13-3(2)(C).

Please contact me at the above email and facsimile addresses if you have any questions.

Instructions For 2002 Georgia Certificate of Nonparticipating Manufacturer Regarding Escrow Payment

What is the definition of a “cigarette”?

A “cigarette” is any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

- (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or
- (b) tobacco in any form that is functional in the product and which, because of its appearance, the type of tobacco inside, or its packaging and labeling, is likely to be offered to or purchased by consumers as a “cigarette”.

What is the definition of a “cigarette manufacturer”?

A cigarette manufacturer is defined as:

- an entity that manufactures cigarettes anywhere in the world that are intended for sale in the United States, either directly or through an importer;
- an entity that is the first purchaser of cigarettes that the manufacturer did not intend to be sold in the United States, regardless of where those cigarettes were manufactured; or
- an entity that becomes a successor to an entity described in the two paragraphs above.

What is a “nonparticipating manufacturer”?

A “nonparticipating manufacturer” is a cigarette manufacturer that has not signed and become a party to the “Master Settlement Agreement” executed on 23 November 1998 between 46 of the United States and certain tobacco manufacturers.

Am I required to sign this form and make a deposit into an escrow fund?

If you are a nonparticipating manufacturer and any of your cigarettes have been sold in Georgia at any time since 28 April 1999, either directly or through a distributor, importer, retailer or other intermediary, then you are subject to Georgia’s laws governing certification and escrow arrangements for nonparticipating manufacturers. *This is true even if you had no sales in Georgia in 2002. See Official Code of Georgia § 10-13-1 et seq.*

When is my certificate due?

This certificate must be filed with the Attorney General of Georgia by 15 April 2003.

When must I make my escrow payment for 2002?

Your escrow payment for 2002 must be deposited into a qualified escrow account by 15 April 2003.

What is a qualified escrow account?

A qualified escrow account is an escrow arrangement with a federally or state-chartered financial institution that has no affiliation with any tobacco product manufacturer and that has assets of at least \$1 billion.

The escrow agreement must require that the financial institution hold the principal deposited into the fund for 25 years, or until the principal is needed to satisfy a judgment obtained by any “releasing party” as defined in the Master Settlement Agreement, whichever occurs first. The agreement must also prohibit you from using the principal deposited into the fund in any way during that period. For a sample escrow agreement, contact the Consumer Interests Section of the Georgia Attorney General.

Where do I mail my completed form and proof of deposit?

Mail your completed form and proof of your deposit into the escrow account to:

Consumer Interests Section
Georgia Department of Law
40 Capitol Square SW
Atlanta GA 30334-1300

What if I have questions about this form or about Georgia’s laws governing nonparticipating manufacturers?

You may send your questions by facsimile to the Consumer Interests Section, Georgia Department of Law, at 404.656.0677.