

STATE OF GEORGIA
TOBACCO PRODUCT MANUFACTURER'S ANNUAL CERTIFICATION
Pursuant To O.C.G.A. § 10-13A-3
For 2009

and

Request For Listing In
Georgia Directory Of Compliant Tobacco Product Manufacturers
In 2010

Who is required to file this Certification?

Any tobacco product manufacturer that sells, intends to sell or has sold cigarettes within the state of Georgia, whether directly or through any distributor, retailer, or similar intermediary, including manufacturers that are participants in the Master Settlement Agreement. You are required to submit this annual certification even if you submitted quarterly certifications during the 2009 sales year.

Definitions:

- (a) **"Brand Family"** means all styles of Cigarettes sold under the same trade mark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of Cigarettes.
- (b) **"Cigarette"** means 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, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (C) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (A) of this definition. The term "cigarette" includes "roll-your-own" tobacco. 0.09 ounces of "roll-your-own" tobacco constitutes one individual cigarette.
- (c) **"Directory"** means the Attorney General's list of all Tobacco Product Manufacturers that have provided current and accurate certifications conforming to the requirements of O.C.G.A. § 10-13A-3 and all Brand Families that are listed in such certifications.

- (d) **“Qualified Escrow Fund”** means an escrow fund established pursuant to an escrow agreement that has been approved by the Attorney General as being in compliance with OCGA § 10-13A-2(9).
- (e) **“Tobacco Product Manufacturer”** means an entity that physically 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 above.
- (f) **“Unit”** means one cigarette or .09 ounces of “roll your own” tobacco, as defined above.

When is the escrow deposit due?

The escrow deposit is due on **Thursday, April 15, 2010.**

When is this Certification due?

This Certification must be received by us no later than **Friday, April 30, 2010.**

Where do I send this Certification?

The Certification must be delivered to two places:

Consumer Interests Section
Office of the Attorney General
40 Capitol Square
Atlanta, Georgia 30334

And

Georgia Department of Revenue
Alcohol and Tobacco Tax Division
1800 Century Center Boulevard
Atlanta, Georgia 30345-3205

INSTRUCTIONS

Part 1: Manufacturer's Identification Enter your name, address, telephone, fax number, electronic mail address, and internet address. If you are located in the U.S., provide your federal tax identification number and TTB Tobacco Manufacturer Permit number.

Part 2: Certification Type Check whether this is an initial certification (manufacturer not currently listed), annual certification (due April 30, 2010 for 2009 sales), or supplemental certification (change of information previously provided).

Part 3: A. Brand Family Identification List by Brand Family all of the cigarettes that you sold or intend to sell in Georgia, whether directly or through any distributor, retailer, or similar intermediary and the number of individual

cigarettes (units) sold in 2009 and 2010 to date. Only the brands you list will be included in the Directory.

It is unlawful to offer for sale in Georgia any cigarette that is not compliant with the Georgia Fire Safety Standard & Firefighter Protection Act, O.C.G.A. § 24-4, *et seq.* ("fire safe" cigarette act). Accordingly, **do not list a brand family unless the required information has been submitted to the Georgia Fire Safety Commissioner and required package markings approved.**

Participating Manufacturers shall include a list of their Brand Families. A Participating Manufacturer may not include a Brand Family in its certification unless it affirms that the Brand Family is deemed to be its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement. The Participating Manufacturer shall update such list thirty calendar days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental certification to the Attorney General and the Department of Revenue.

Non-Participating Manufacturers shall include the following in their certification: a list of all of its Brand Families, and the number of units for each Brand Family that were sold in Georgia during the preceding calendar year; a list of all of its Brand Families that have been sold in Georgia at any time during the current calendar year; indicate, by an asterisk (*), any Brand Family sold in Georgia during the preceding calendar year that is no longer being sold in Georgia as of the date of such certification; and identify the fabricator of the Brand Families.

A Non-Participating Manufacturer may not include a Brand Family in its Certification unless it affirms that it is the tobacco product manufacturer of the Brand Family and the Brand Family is to be deemed its Cigarettes for purposes of O.C.G.A. § 10-13-1, *et seq.* A Non-Participating Manufacturer shall update such list thirty calendar days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental certification to the Attorney General and Department of Revenue.

B. Identify for each Brand Family the name and address of any other fabricator of such Brand Family (either current or past fabricator). For each fabricator identify the time period during which the party fabricated the brand.

C. Factory Identification: Enter the name, owner, address, phone and fax number of the factory that currently fabricates the cigarettes or RYO tobacco listed.

Part 4: Non-Participating Manufacturer Certification Each Non-Participating Manufacturer must:

A. Verify that the Non-Participating Manufacturer is registered with the Georgia Secretary of State to do business in Georgia or has appointed an agent for service of process and provided notice thereof as required by O.C.G.A. § 10-13A-6. Complete and submit Form AG-02 (*NPM's Appointment of Registered Agent & Registered Agent's Statement Form.*) The agent for service of process listed in this section must be the same as the agent appointed in Form AG-02.

B. Identify

(i) the name, address and telephone number of the financial institution where the Non-Participating Manufacturer has established a Qualified Escrow Fund pursuant to O.C.G.A. § 10-13-3(2);

(ii) the account number of such Qualified Escrow Fund and any sub-account number for Georgia;

Please attach a copy of your Escrow Agreement with all amendments.

Part 5: Non-Participating Manufacturer Escrow Deposit Calculation

A. The liability year for this certificate is the 2009 calendar year: January 1, 2009 through December 31, 2009.

B. List the number of units sold during the liability year bearing Georgia tax stamps by brand and the total number of cigarettes sold.

C. Calculate the deposit, subtracting all amounts deposited into your qualified escrow account during the 2009 sales year for sales made in 2009. The amount on Line C(5) is the amount that must be deposited into a qualified escrow account by **April 15, 2010**.

D. Identify

(i) the amount you placed in such fund for units sold in Georgia during 2009 and each preceding year, the date and amount of each such deposit, and the total account balance; and

(ii) the amount and date of any withdrawal or transfer of funds you made at any time from such fund or from any other Qualified Escrow Fund.

Attach a copy of your receipt or other proof of deposit for 2009 sales from your financial institution and bank statement showing current account balance.

Part 6: Execution by Authorized Designees The person executing the Certification must be an authorized representative of the Tobacco Product Manufacturer

identified in Part 1. The Designee's name and title must be legibly printed and the Certification must be executed in the presence of an authorized notary.

*You may send any questions about this form by mail or facsimile to: Consumer Interests Section
Office of the Attorney General • 40 Capitol Square SW • Atlanta GA 30334
Facsimile 404.656.0677*

**STATE OF GEORGIA
TOBACCO PRODUCT MANUFACTURER'S CERTIFICATION
Pursuant To O.C.G.A. § 10-13A-3
For 2009**

and

**Request For Listing In
Georgia Directory Of Compliant Tobacco Product Manufacturers
In 2010**

Part 1: Tobacco Product Manufacturer Identification

Company: _____

Address: _____

Address: _____

Phone: _____ FAX: _____

Email: _____ Web Address: _____

Name/Title of person completing report: _____

If located in the U.S.: Manufacturer's Federal I.D. # : _____

If located in the U.S.: TTB Tobacco Manufacturer Permit Number: _____

**The Tobacco Product Manufacturer identified above is, as of the date of this Certification:
(check one)**

☐ **A Participating Manufacturer under the Tobacco Master Settlement Agreement who is generally performing its financial obligations under the Tobacco Master Settlement Agreement.**

☐ **A Non-Participating Tobacco Product Manufacturer in full compliance with O.C.G.A. § 10-13-1, *et seq.***

Part 2: Certification Type

This form is a (check one):

☐ Initial certification – Manufacturer is not currently listed on the Georgia Directory of Compliant Tobacco Product Manufacturers

☐ Annual certification – Due April 30, 2010 for sales made in Georgia in 2009

☐ Supplemental certification – Change of information previously provided.
Change of information must be submitted 30 days prior to change.

Part 3:

A. Brand Family Identification (Attach additional Sheets if Necessary)

Participating Manufacturers complete A & B;

Non-Participating Manufacturers complete A through E.

A. Brand Family Indicate with an asterisk (*) those brands no longer being sold in Georgia.	B. Cigarette or RYO	C. Units Sold in 2009 (.09 oz of RYO equals 1 unit)	D. Units Sold in 2010 (.09 oz of RYO equals 1 unit)	E. Fabricator

Note: By including a brand family in its certification, a Participating Manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of calculating its payments under the MSA for the 2009 and 2010 sales years. By including a brand family in its certification, a Non-Participating Manufacturer affirms that the brand family is deemed to be its cigarettes for escrow purposes for the 2009 and 2010 sales years. However, the Attorney General retains the discretion to determine whether the listed brand family constitutes the cigarettes of another tobacco product manufacturer.

It is unlawful to offer for sale in Georgia any cigarette that is not compliant with the Georgia Fire Safety Standard & Firefighter Protection Act, O.C.G.A. § 24-4, *et seq.* ("fire safe" cigarette act).

Do not submit a brand family for listing unless the required information has been submitted to the Georgia Fire Safety Commissioner and required package markings approved.

B. For each brand family listed above, list the name and address of any other manufacturer who has fabricated or is currently fabricating the brand family.

C. Factory Identification

Name of Factory: _____ Phone Number: _____

Owner of Factory: _____ Fax Number: _____

Address of Factory: _____

Part 4: Non-Participating Manufacturer Certification

A. Registered Agent / Approved Agent for Service of Process

Agent Name: _____

Company: _____

Address (including **county**): _____

Address: _____

Phone: _____ FAX: _____

Email: _____

**Complete and submit an Appointment of Registered Agent for the State of Georgia
and Registered Agent's Statement form. (Form AG-02)**

B. Qualified Escrow Fund – Financial Institution

Name of Institution: _____

Address: _____

Representative: _____

Phone: _____

Escrow Acct No: _____ Georgia Sub-Account No: _____

Attach an executed copy of your Escrow Agreement with all amendments and attachments

Part 5: Non-Participating Manufacturer Escrow Deposit Calculation

A. Liability Year:

The liability year for this certificate is January 1, 2009 through December 31, 2009.

**B. Units Sold: The number of individual cigarettes or units of RYO sold in Georgia in 2009
by brand is:**

Brand Name: _____	Number of units sold: _____
Brand Name: _____	Number of units sold: _____
Brand Name: _____	Number of units sold: _____
Brand Name: _____	Number of units sold: _____

Total: _____

C. Calculating the Deposit Amount

Follow these steps to calculate the appropriate amount to be deposited for the liability year 2009

- (1) Enter the total number from Part 5 Section B above: _____
- (2) Multiply that amount by .0266359,
which is the combined 2009 Base Amount
and Inflation Adjustment: x _____ .0266359
- (3) Enter the total here: _____
- (4) Enter the total amount deposited into escrow for 2009 sales
during the 2009 sales year: _____
- (5) Subtract line (4) from line (3), enter the total here: _____

The amount that must be deposited on or before April 15, 2010 for the liability year 2009 will be the amount shown in Line C(5).

D. Escrow Deposit/Withdrawal History for Georgia

Date	Deposit	Withdrawal <small>Withdrawals must comply with O.C.G.A. § 10-13-3-(2)(B). Verification of compliance must be provided</small>	Balance

**Attach a copy of your receipt or other proof of deposit
for 2009 sales from your financial institution.**

&

Attach a copy of bank statement showing current account balance

Part 6. Execution by Authorized Designee

This certification must be signed by a qualified company officer authorized to bind the applicant company.

By executing this document, I confirm that my position with the company and my actual authority to certify on behalf of the applicant meets the foregoing requirements.

I understand the Georgia Attorney General may require additional information and/or documentation to determine if the applicant company or brands are in compliance with Georgia law and qualify for the Georgia Directory.

Under penalty of perjury, I state that the information contained in this Certification and attachments is true and accurate.

Designee (Print Name): _____ Title: _____

Signature of Designee: _____ Date: _____

Subscribed and sworn to before me on this date: _____

Signature of Notary Public: _____ City or County of: _____

My Commission expires: _____

Mail the completed certificate of compliance to:

Consumer Interests Section
Office of the Attorney General
40 Capitol Square
Atlanta, Georgia 30334

And

Georgia Department of Revenue
Alcohol and Tobacco Tax Division
1800 Century Center Boulevard
Atlanta, Georgia 30345-3205