



**STATE OF SOUTH CAROLINA
TOBACCO PRODUCT MANUFACTURER
CERTIFICATE OF COMPLIANCE**

[Pursuant to S.C. Code Ann. §§11-47-10 to -30, and §§11-48-10 to -110]

**2014 NON-PARTICIPATING MANUFACTURER
CERTIFICATION FORM**

NOTICES

FILING DEADLINE is April 30, 2014. Certification Forms must be postmarked no later than **April 30, 2014** to avoid removal from the South Carolina Tobacco Directory.

Please Type or Print. The Attorney General's Office will not process incomplete or illegible Certification Forms.

This Certification Form must be supplemented to reflect any change in information at any time during the year. Any change of information *must* be submitted *30 days* prior to change. The failure to notify the Attorney General's Office of any changes to this information 30 days prior to any change, including changes in address, may result in removal from the South Carolina Tobacco Directory.

The denial of a certification, removal of the Applicant or its brands from any other state's tobacco directory, or failure to notify the South Carolina Attorney General's Office of same, may, in the Attorney General's sole discretion, result in denial of this certification or immediate removal from the South Carolina Tobacco Directory at any time.

Please refer any questions to the Office of the Attorney General Tobacco Unit at (803) 734-6133.

Mail this completed Certificate of Compliance and attachments to:

**South Carolina Office
of the Attorney
General
Tobacco Unit
P.O. Box 11549
Columbia, SC 29211**

PART 1: TOBACCO PRODUCT MANUFACTURER IDENTIFICATION

Type of Certification (check one):

- Initial Certification – Applicant not currently listed on the South Carolina Tobacco Directory
- Annual Certification – Due April 30, 2014
- Supplemental Certification – Change of information provided to the Attorney General or request to add additional brands to the South Carolina Tobacco Directory

Company Information:

Applicant Company Name:

Mailing Address:

City:

State:

Zip:

Country:

Phone:

Fax:

Email:

Name of Person Completing Certification:

Name of Contact Person (if different from above):

Manufacturing Facility Information:

| | | | |
|---|--------|--------|----------|
| Name of Manufacturing Facility (if different from above): | | | |
| Physical Address: | | | |
| City: | State: | Zip: | Country: |
| Phone: | Fax: | Email: | |
| Name of Factory Manager(s): | | | |

Licenses and Permits:

| | |
|---|----------|
| If located in U.S. – Manufacturer’s Federal Taxpayer ID Number: | |
| TTB Permit Number: | Expires: |
| Please indicate if TTB Permit was obtained as a manufacturer or importer: | |
| Name of Any other Foreign Manufacturer Permit or License: | Expires: |
| Copy of Above Applicable Permit Attached <input type="checkbox"/> YES <input type="checkbox"/> NO | |

Attorney Information:

| | | | |
|-------------------------------|--------|--------|----------|
| Attorney Name, if applicable: | | | |
| Firm Name: | | | |
| Firm Mailing Address: | | | |
| City: | State: | Zip: | Country: |
| Phone: | Fax: | Email: | |

Tobacco Product Manufacturer Additional Information:

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|---|
| <p>1. Applicant is the manufacturer (i.e. fabricator) of the brands listed in this certification, which are intended to be sold in the United States, including cigarettes intended to be sold in the United States through an importer.</p> <p style="text-align: center;"><input type="checkbox"/> YES <input type="checkbox"/> NO</p> |
| <p>2. If the answer is “YES,” please attach a photograph or diagram of your manufacturing facility and indicate on the photograph or diagram where the equipment and facilities for manufacturing (i.e. fabricating) the cigarettes, if any, are located.</p> |
| <p>3. Applicant is 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.</p> <p style="text-align: center;"><input type="checkbox"/> YES <input type="checkbox"/> NO</p> |
| <p>4. If the answer is “YES,” attach documentation identifying each cigarette manufacturer (i.e. fabricator), its plant address, mailing address, contact person, phone, and fax numbers, and the relationship to Applicant. Identify the location of the transfer of ownership of cigarettes and a copy of every agreement or contract between Applicant and fabricator. Attach additional sheets as necessary to provide a complete response.</p> |

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| <p>5. Applicant is successor of an entity described in questions 1 or 3 above (i.e. manufacturer or first importer). Please identify the predecessor(s).</p> <p style="text-align: center;"><input type="checkbox"/> YES <input type="checkbox"/> NO</p> | |
| <p>6. If Applicant answered “NO” to questions 1, 3, and 5 above, explain the basis for the Applicant’s claim that it is a Tobacco Product Manufacturer as defined under South Carolina Code Ann. §11-47-10 to -110. Please submit all documentation to support Applicant’s contention. Attach additional sheets as necessary to provide a complete response.</p> | |

Organizational Documents:

| Check One: | | Attach the following documents or information: |
|--------------------------|--------------------------|---|
| Response Provided | Does Not Apply | |
| <input type="checkbox"/> | <input type="checkbox"/> | Partnership or Association: Current copy of the Certificate of Partnership or the certificate required to be filed by any state, county, or municipality. |
| <input type="checkbox"/> | <input type="checkbox"/> | Corporation: 1. Current copy of the Certificate of Incorporation or other charter; and 2. Extracts of documents listing the officers authorized to sign for the company. |
| <input type="checkbox"/> | <input type="checkbox"/> | Limited Liability Company or other entity: Current copy of the business document(s) filed with a state, county, or municipality when such filing is required. Include a copy of any document indicating persons authorized to sign for the entity. |
| <input type="checkbox"/> | <input type="checkbox"/> | Company Officers/Owners: Provide a list of all company officers and company owners (all persons with an equity interest of 10% or more in the company). Include name, address, phone number, and email address. |
| <input type="checkbox"/> | <input type="checkbox"/> | Affiliates: Provide a list of all company affiliates pursuant to S.C. Code Ann. §11-47-20(b) that also manufactures, imports, distributes, or sells cigarettes or RYO. Include the name, address, and contact information for each affiliate. |
| <input type="checkbox"/> | <input type="checkbox"/> | Marketing Information: For each brand family, list the name, address, and contact information for each distributor and wholesaler through which the applicant intends to sell cigarettes or RYO in South Carolina. |
| <input type="checkbox"/> | <input type="checkbox"/> | Agreements with Participating Manufacturers: Identify every agreement between Applicant and any Participating Manufacturer (PM) or PM Affiliate that relates to the making, importing, distribution, transportation, or sale of each brand family. |
| <input type="checkbox"/> | <input type="checkbox"/> | Agreements Regarding Compliance with the Qualified Escrow Statute: Attach any agreement that Applicant has with another entity regarding the production of cigarettes or funding of Qualified Escrow Fund. |

PART 2: REQUIRED DOCUMENTATION

Documentation:

| Response Provided | |
|--------------------------|--|
| <input type="checkbox"/> | Please attach documentation, which provides the following information: |
| <input type="checkbox"/> | Brand Names: List all brands manufactured by Applicant. Please indicate by an asterisk (*) any brand no longer being sold in South Carolina as of the date of this certification. |
| <input type="checkbox"/> | Cigarette or RYO: Indicate whether the brand family is a rolled cigarette or roll-your-own (RYO) tobacco. |

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|--------------------------|--|
| <input type="checkbox"/> | Units Sold – Prior Year: Please execute the attached Affidavit of Units Sold indicating the number of units sold in 2013. Please note that 0.09 oz of RYO constitutes one unit. |
| <input type="checkbox"/> | Units Sold – Current Year: Indicate the number of units sold during the current calendar year from January 1, 2014 to date of application. _____ units sold to date in 2014. |
| <input type="checkbox"/> | Prior Manufacturer(s): Indicate the name and address of all prior tobacco product manufacturers. |
| <input type="checkbox"/> | Current Trademark Holder: Include the name and address of the current trademark holder. Please include a certified copy of the current trademark. |
| <input type="checkbox"/> | Prior Trademark Holder: Include the name and address of all prior trademark holders. |
| <input type="checkbox"/> | Prior Brand Families: List all brands made by Applicant since 1999. Please indicate whether any of the brands listed have been manufactured by a different manufacturer at any time. If yes, please list the brand family, manufacturer, address, and years manufactured. |
| <input type="checkbox"/> | Sample Packaging: Please provide sample of relevant tobacco product packaging. Packing may be submitted in an electronic format. |

| Additional Documentation for Cigarette Brands: | | |
|--|--------------------------|---|
| Check One: | | Attach the following documents or information, which will not apply to RYO tobacco: |
| Response Provided | Does Not Apply | |
| <input type="checkbox"/> | <input type="checkbox"/> | Federal Trade Commission (“FTC”): Attach the FTC’s written approval of the Applicant’s <i>current</i> Cigarette Health Warning Rotation Plan. <i>Cigarettes Only.</i> |
| <input type="checkbox"/> | <input type="checkbox"/> | Centers for Disease Control: For each brand family, list the name and address of the entity that submitted the ingredient reporting information to the U.S. Secretary of Health and Human Services as required by the Federal Cigarette Labeling and Advertising Act. Attach a <i>current</i> copy of the Certificates of Compliance received from the U.S. Secretary of Health and Human Services for Applicant’s annual ingredient report. <i>Cigarettes Only.</i> |
| <input type="checkbox"/> | <input type="checkbox"/> | Fire Standard Compliance (“FSC”): For each brand family, please attach a letter from the South Carolina Fire Marshal’s Office indicating that the brands for which the Applicant seeks certification are FSC Compliant. <i>Cigarettes Only.</i> |

| PART 3: PACT ACT COMPLIANCE | |
|-------------------------------|---|
| <input type="checkbox"/> | Attach a copy of the Applicant’s PACT Act Registration filed with the ATF and the South Carolina Department of Revenue. |
| The Applicant certifies that: | |
| <input type="checkbox"/> | The Applicant is in compliance with all reporting obligations to the State of South Carolina; or |
| <input type="checkbox"/> | The Applicant does not ship tobacco products directly into the State of South Carolina. Attach a list Of South Carolina licensed distributors to whom Applicant sells tobacco products. |

PART 4: QUALIFIED ESCROW ACCOUNT

Escrow Account Information:

| | | |
|--------------------------------|------------------------------|--------|
| Name of Financial Institution: | Phone: | Email: |
| Contact Agent Name: | Fax: | |
| Mailing Address: | | |
| Escrow Acct No.: | South Carolina Sub Acct No.: | |

The Applicant certifies that at the time of this certification, the Applicant has:

- Established and continues to maintain a Qualified Escrow Fund as defined under S.C. Code Ann. §11-47-30(b)(1).
- Executed a Qualified Escrow Agreement that has been reviewed and approved by the South Carolina Office of the Attorney General and that governs the Qualified Escrow Fund for the State of South Carolina. *A copy of the Qualified Escrow Agreement, including any amendment(s), is attached.*
- Ensured that the escrow funds held in the Qualified Escrow Fund on behalf of South Carolina are in a separate segregated account, separate and apart from escrow funds held on behalf of any other beneficiary.
- Ensured that the Qualified Escrow Fund is not encumbered by a security interest granted to a third party.
- Attached information documenting all deposits and withdrawals from the Qualified Escrow Fund during the last year and attached proof of the current escrow account balance from the Escrow Agent.

Funds Deposited Into Qualified Escrow Account (check one):

Pursuant to S.C. Code Ann. §11-47-30(b)(1), an approved tobacco product manufacturer shall place into a qualified escrow fund by April 15 of the year following the year in question a certain amount adjusted for inflation. For non-participating manufacturers making escrow deposits on April 15, 2014 for their 2013 sales, the proper per/stick rate, adjusted by inflation, is **\$0.0299790**.

- The Applicant has deposited funds into a qualified escrow account for units sold in South Carolina during calendar year 2013.
- The Applicant did not have sales in South Carolina during calendar year 2013.

Proof of Deposit:

If Applicant has deposited funds, please provide proof of amount and date of deposit to South Carolina's segregated sub-account for 2013.

PART 5: REGISTERED AGENT

The Applicant (check one):

Is registered to do business in the State of South Carolina

Has appointed a registered agent in the State of South Carolina and continues to engage with the following:

Name of Registered Agent:

Mailing Address:

Phone: Fax: Email:

Applicant has attached an original current year letter from the Registered Agent listed above accepting Appointment as Registered Agent on the company’s letterhead. *The Registered Agent must provide 30 Day notice prior to resignation.*

PART 6: DISCLOSURES

| YES | NO | N/A | Check Yes or No or Not Applicable (“NA”) as appropriate to ALL questions. Provide additional information where requested. |
|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Within the past two years, there has been a change in manufacturer (fabricator) of one or more of the brand families listed in this certification. If yes, provide details of the change. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Applicant sold cigarettes (including RYO) in South Carolina in the preceding calendar year. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Applicant advertises or sells cigarettes via the internet or in catalogs and uses the mail or other delivery service to deliver cigarettes to South Carolina consumers. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Has any state or federal court obtained a court judgment or administrative order against the Applicant relating to the brand families listed in this certification? If yes, please attach a list of the location, case number, and date of the judgment or order. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | As of the date of this certification, has Applicant satisfied all court judgments and orders to pay penalties in any state or federal court? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Applicant or one of its brand families listed in the certification was previously denied listing on the South Carolina Tobacco Directory or any other state, or was removed from the South Carolina Tobacco Directory or any other state. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Applicant is enjoined or banned from selling any cigarettes by court order, state or federal agency ruling or determination. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | A state or federal court has entered a judgment finding that the Applicant engaged in an unfair business practice or unfair competition relating to the sale of tobacco products. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Has Applicant or any person or Affiliate listed in the certification been indicted or convicted of a crime under federal, state, or foreign laws in connection with the sale of cigarettes or RYO? If yes, please provide details, including case and/or docket number. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Has Applicant or any person or Affiliate listed in the certification been denied a permit, license or other authorization to engage in any business relating to the sale of tobacco by any government entity (federal, state, local, foreign) or had such permit revoked, suspended or otherwise terminated? If yes, please provide details. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | Is Applicant or any of the persons or Affiliates listed in the certification entitled to claim Sovereign Immunity based on Tribal Status? If yes, provide information regarding tribal status and affiliation. |

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| <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | Applicant is selling only Fire Standards Compliant cigarettes into South Carolina. |
| <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | Applicant is in compliance with the Federal Family Smoking Prevention and Tobacco Control Act (Public Law 111-31), including Section 907(a)(1)(A), which bans the sale of all flavored cigarettes. |

PART 7: AFFIDAVIT OF TOBACCO PRODUCT MANUFACTURER

Under penalty of falsification, I state that the tobacco product manufacturer named in Part 1, as of the date of the certification, is a non-participating manufacturer in full compliance with all applicable sections of Title 11, Chapter 47 of the South Carolina Code.

I understand that this certification must be signed by a qualified company officer authorized to bind the applicant company. My position with the company and my actual authority to certify on behalf of the applicant meets the foregoing requirements.

I understand that the Attorney General may require additional information and/or documentation to determine if applicant qualifies for listing on the South Carolina Tobacco Directory.

I have examined this certification, including attachments and supporting documents and, to the best of my knowledge and belief, this certification, including attachments and supporting documents, is true, correct, and complete.

I affirm that the certifying Tobacco Product Manufacturer consents to being sued in South Carolina Court of Common Pleas for the purposes of the State of South Carolina enforcing any provisions of S.C. Code §11-47-10, *et seq.* or S.C. Code §11-48-10, *et seq.*

I understand that it is the responsibility of all Tobacco Product Manufacturers to track and report sales of cigarette and RYO brands sold in South Carolina no later than twenty days after the end of each calendar quarter, and more frequently if so directed by the Attorney General.

By signing this affidavit on behalf of the Applicant company, I understand that the company is required to comply with all state and federal laws concerning the sale of tobacco products.

THIS CERTIFICATION MUST BE SIGNED AND DATED BEFORE A NOTARY PUBLIC

Dated: _____, 2014

Affiant

Sworn to and subscribed before me on this ___ day of _____, 2014.

(SEAL)

Notary Public

(Print Name)

My commission expires: _____

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**AFFIDAVIT OF UNITS SOLD IN SOUTH CAROLINA IN
2013 SUBMITTED PURSUANT TO THE SOUTH
CAROLINA TOBACCO ESCROW FUND ACT**

Under penalty of falsification, I, _____ (*name*), hereby certify that I have knowledge of the information contained herein and in the accompanying 2014 Certification of _____ (*name of Tobacco Product Manufacturer*).

I certify that I am the _____ (*office or position or title*) of the Tobacco Product Manufacturer.

I certify that I have the authority to bind the Tobacco Product Manufacturer in matters related to the information contained in the 2014 Certification of the Tobacco Product Manufacturer, including information related to the number of units sold in South Carolina in calendar year 2013.

I certify that I understand that under the Tobacco Escrow Fund Act, S.C. Code Ann. § 11-47-10 *et seq.*, each cigarette or stick is a “unit sold.” S.C. Code Ann. § 11-47-30(j).

I certify that there were _____ units sold by Tobacco Product Manufacturer in South Carolina in 2013.

By signing this affidavit on behalf of the Tobacco Product Manufacturer, I understand that the company is required to comply with South Carolina law concerning the sale of tobacco products, including the requirements of the Tobacco Escrow Fund Act, which requires a Tobacco Product Manufacturer with units sold in South Carolina to deposit \$0.0299790 into a qualified escrow fund for each unit sold in 2013.

I HEREBY CERTIFY:

Signature of Affiant
Officer for Tobacco Product Manufacturer

Dated: _____, 2014

Sworn to and subscribed before me on this _____ day of _____, 2014.

Notary Public

(NOTARY SEAL)

(Print Name)
My commission expires: _____