



**HECTOR BALDERAS  
ATTORNEY GENERAL**

## **NPM QUARTERLY ESCROW CERTIFICATION**

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

**GENERAL INFORMATION:** What is the definition of a tobacco product manufacturer?

1. Any entity that manufactures cigarettes and/or roll-your-own tobacco anywhere, and that said manufacturer intends to be sold in the United States, including cigarettes to be sold in the United States through an importer;
2. 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
3. A successor of any entity described above.

#### **Who is required to file this certificate of compliance?**

Any tobacco product manufacturer which:

- (1) sells cigarettes within the state of New Mexico (whether directly or through any distributor, retailer, or similar intermediary) and;
- (2) is not a Participating Manufacturer or Subsequent Participating Manufacturer, as defined in the tobacco Master Settlement Agreement executed on 12/23/98 between 46 U.S. States and territories, including New Mexico, and certain tobacco companies (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 New Mexico 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 on to the MSA.

#### **What is a qualified escrow fund?**

A non-participating manufacturer 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 New Mexico and other "Releasing Parties" as defined in the Master Settlement Agreement and (2) prohibits the non-participating manufacturer from using, accessing, or directing the use of the funds' principal except as consistent with NMSA 1978, Section 6-4-13 (B).

### **When is this certificate of compliance due?**

This certificate of compliance is to be filed quarterly, as follows:

- 1<sup>st</sup> Quarter (January through March) – due April 30 of that year
- 2<sup>nd</sup> Quarter (April through June) – due July 30 of that year
- 3<sup>rd</sup> Quarter (July through September) – due October 30 of that year
- 4<sup>th</sup> Quarter (October through December) – due January 31 of the next year following the sales year.

### **When must I make my escrow payment?**

You must deposit all escrow payments into your qualified escrow fund quarterly by the due date of your certificate of compliance set forth in the paragraph above. 1<sup>st</sup> Quarter is due April 30, 2<sup>nd</sup> Quarter is due July 30, 3<sup>rd</sup> Quarter is due October 30 and 4<sup>th</sup> Quarter is due January 31 of the next year following the sales year. Attach a copy of your receipt or other proof of deposit from your financial institution to the 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.

### **SPECIFIC INSTRUCTIONS:**

**Part 1: Manufacturer's Identification:** Write your name, address, telephone and fax number.

**Part 2: Sales Year 2017:** Check the appropriate quarter. 1<sup>st</sup> Quarter is from January 1, 2017 to March 31, 2017; 2<sup>nd</sup> Quarter is from April 1, 2017 to June 30, 2017; 3<sup>rd</sup> Quarter is from July 1, 2017 to September 30, 2017; and 4<sup>th</sup> Quarter is from October 1, 2017 to December 31, 2017.

**Part 3: Units Sold:** Write the number of Units Sold in New Mexico for the quarter indicated. A Unit Sold equals an individual cigarette from a pack that bears a New Mexico state cigarette excise tax stamp or .09 ounces of roll-your-own tobacco.

**Part 4: Deposit Amount:** Multiply the Units Sold by the adjusted inflation rate of \$0.0337416 to arrive at the total deposit to be paid into your qualified escrow account for the applicable sales year. Attach a copy of the financial institution's receipt or other proof from the Escrow Agent of the escrow deposit.

**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.

**Part 6: Signature** An authorized notary public must also sign and date this certificate of compliance.



**New Mexico Office of the Attorney General**

**QUARTERLY Certificate of Compliance by Non-Participating  
Manufacturer Regarding Escrow Payment**

**Part 1: Manufacturer's Identification:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

**Part 2: Sales Year 2017 (check one):**

The Quarter being reported for this Certificate of Compliance is:

- 1<sup>st</sup> Quarter:
- 2<sup>nd</sup> Quarter:
- 3<sup>rd</sup> Quarter:
- 4<sup>th</sup> Quarter:

**Part 3: Units Sold:**

Indicate the number of Units Sold (an individual cigarette from a pack that bears a New Mexico state cigarette excise tax stamp or .09 ounces of roll-your-own tobacco equals one Unit Sold) for the 2017 quarter indicated in Part 2:

Units Sold: \_\_\_\_\_

**Part 4: Quarterly Escrow Payment Amount:**

Calculate the appropriate quarterly escrow deposit amount. Multiply the number of Units Sold by \$0.0337416 and write that amount here:

Escrow Deposit Amount: \_\_\_\_\_

**Attach a copy of the financial institution's receipt or other proof from the Escrow Agent of the escrow deposit.**

NMSA § 6-4-13(A)(2) requires payments to be "adjusted for inflation." NMSA § 6-4-12(A) defines "adjusted for inflation" as "increased 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 2017, tobacco product manufacturers required to make quarterly escrow payments will be required, in their quarterly escrow payments, to deposit an amount that has been cumulatively adjusted for inflation by 3%. When the adjusted for inflation rate for 2017 has been determined, manufacturers will be advised and then have until April 15, 2018 to deposit any additional money, if necessary, to satisfy the actual adjusted for inflation amount under the Act. The 2017 cumulative adjusted for inflation rate, increased by 3%, is 79.01766%. Multiplying the base escrow deposit amount of \$0.0188482 by the cumulative adjusted for inflation rate of 79.01766% equals the cumulative inflations adjustment amount of \$0.0148934. Adding the base escrow deposit amount \$0.0188482 to the cumulative inflation adjustment amount \$0.0148934 equals \$0.0337416.

**Part 5: Financial Institution:**

Name of Institution: \_\_\_\_\_  
Address: \_\_\_\_\_  
Escrow Fund Acct. No.: \_\_\_\_\_  
Escrow Fund New Mexico Subaccount No.: \_\_\_\_\_  
Total Amount Held: \_\_\_\_\_

**Part 6: Signature**

Under penalty of perjury, I state that, to the best of my 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:

New Mexico Office of the Attorney General  
Litigation Division – Tobacco Project  
P.O. Drawer 1508  
Santa Fe, NM 87504-1508  
Fax: 505-490-4881

Street Address for overnight or hand delivery:  
New Mexico Office of the Attorney General  
Litigation Division – Tobacco Project  
408 Galisteo  
Santa Fe, NM 87504