

INSTRUCTIONS REGARDING QUARTERLY ESCROW PAYMENT REQUIREMENT

Who is required to make quarterly escrow payments?

A tobacco product manufacturer that is required to make escrow deposits pursuant to Neb. Rev. Stat. § 69-2703(2), will be required to make such deposits in quarterly installments during the year in which the sales covered by the deposit are made:

(a) Through the end of the calendar year following the year said tobacco product manufacturer is listed in the directory established pursuant to Neb. Rev. Stat. § 69-2706,

(b) if said tobacco product manufacturer is removed from, then subsequently relisted in, the directory, then for all periods following the relisting through the end of the calendar year following the year the tobacco product manufacturer is relisted in the directory;

(c) if said tobacco product manufacturer has failed to make a complete and timely escrow deposit for any calendar year as required by section 69-2703, or for any quarter as required in Neb. Rev. Stat. § 69-2706; or

(d) if said tobacco product manufacturer has failed to pay any judgment, including any civil penalty ordered under § 69-2703 or § 69-2709.

What is the amount of the quarterly deposit required?

For sales in 2012, the **estimated** escrow rate, as adjusted for inflation, is \$0.0291058 per stick sold in the preceding quarter.

When must quarterly escrow deposits be made?

The quarterly deposit must be made on or before thirty (30) days from the last day of the calendar quarter. See below for 2012 deadlines.

First Quarter 2012: January 1 to March 31. Payment due April 30. Notice due May 10.

Second Quarter 2012: April 1 to June 30. Payment due July 30. Notice due August 9.

Third Quarter 2012: July 1 to September 30. Payment due October 30. Notice due November 9.

Fourth Quarter 2012: October 1 to December 31. Payment due January 30, 2013. Notice due February 9, 2013.

NOTE: If you are required to make escrow deposits in quarterly installments, notices regarding said deposits will not be sent. If the deposit and notice are not received by the Attorney Generals Office by the notice due date, the Attorney Generals Office will advise the Nebraska Department of Revenue to post a 30-day notice of intent to remove the manufacturer and its brands from the directory.

What information needs to be submitted as proof of the quarterly deposit?

The manufacturer required to make escrow deposits in quarterly installments shall submit written proof of the deposit, such as a copy of the bank deposit slip or bank account

statement, to the Attorney General's Office, Attn: Lynne R. Fritz, Assistant Attorney General, P.O. Box 98920, Lincoln, NE 68509-8920.

When is proof of deposit due?

Proof of the quarterly deposit is due within ten (10) days after the quarterly deposit deadline.

**Certificate of Compliance by Non-Participating Manufacturer
Regarding Quarterly Escrow Payment for the State of Nebraska**

GENERAL INFORMATION

What is the definition of a Tobacco Product Manufacturer?

- Any entity that 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.

Who is required to file this certificate of compliance?

- A tobacco product manufacturer that is required to make escrow deposits pursuant to Neb. Rev. Stat. § 69-2703(2), will be required to make such deposits in quarterly installments during the year in which the sales covered by the deposit are made:
 - (a) Through the end of the calendar year following the year said tobacco product manufacturer is listed in the directory established pursuant to Neb. Rev. Stat. § 69-2706,
 - (b) if said tobacco product manufacturer is removed from, then subsequently relisted in, the directory, then for all periods following the relisting through the end of the calendar year following the year the tobacco product manufacturer is relisted in the directory;
 - (c) if said tobacco product manufacturer has failed to make a complete and timely escrow deposit for any calendar year as required by section 69-2703, or for any quarter as required in Neb. Rev. Stat. § 69-2706; or
 - (d) if said tobacco product manufacturer has failed to pay any judgment, including any civil penalty ordered under § 69-2703 or § 69-2709.

If you satisfy these requirements, you must file this certificate of compliance to report cigarettes, including RYO, manufactured by you and sold in the State of Nebraska on which Nebraska cigarette excise tax has been collected and pay the amount calculated into your qualified escrow fund. Failure to do so may result in the initiation of civil litigation against you for injunctive relief and civil penalties.

What is a non-participating manufacturer?

A non-participating manufacturer is any Tobacco Product Manufacturer who has not signed onto the MSA .

What is a Qualified Escrow Fund?

A non-participating manufacturer that is required to file this 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 separately for the benefit of the State of Nebraska and (2) prohibits the non-participating manufacturer from using, accessing, or directing the use of the funds' principal except as consistent with Neb. Rev. Stat. § 69-2703.

When must I make my escrow payment?

As specified in Neb. Rev. Stat. § 69-2703(2), quarterly escrow payments must be made on or before thirty (30) days from the last day of the previous calendar quarter, for total units sold during the preceding quarter.

When is this certificate of compliance due?

The non-participating tobacco product manufacturer required to make quarterly escrow payments shall submit this certificate along with written proof of the deposit, such as a copy of the bank deposit slip or bank account statement, to the Attorney General's office within ten (10) days after the quarterly deposit deadline.

SPECIFIC INSTRUCTIONS

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

Part 2: Calendar Quarter. The sales year and quarter you are reporting for.

Part 3: Units Sold. Write the number of individual cigarettes manufactured by you and sold during the calendar quarter in Nebraska on which state excise tax was collected. The definition of cigarette includes roll-your-own tobacco. (Nine hundredths of an ounce of roll-your-own tobacco shall constitute one individual cigarette.)

Part 4: Brands Sold. Write the names of all brands manufactured by you and sold in the State of Nebraska during the calendar quarter.

Part 5: Escrow Rates and Payment. Multiply the units sold by the statutory rate, with the estimated inflation adjustment for the sales year and write the result as your total.

Part 6: 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 held for the benefit of the State of Nebraska.

Part 7: Signature by Authorized Designee. The person executing the Certificate must be an authorized representative of the Tobacco Product Manufacturer identified in Part 1. The Designee's name and title must be printed and the Certificate must be executed in the presence of an authorized notary.

**Certificate of Compliance by Non-Participating Manufacturer Regarding
Quarterly Escrow Payment for 2012 Sales**

Part 1: Manufacturer's Identification

Name: _____

Address: _____

Phone: _____

FAX: _____

E:mail Address: _____

Part 2: Calendar Quarter

The calendar quarter for this Certificate of Compliance is: _____ quarter, 2012.

Part 3: Units Sold

(Cigarettes, including RYO, on which Nebraska cigarette excise tax was collected)

Number of units sold by the Manufacturer identified above in Nebraska during the calendar quarter is as follows: _____ .

Part 4: Brands Sold

List the names of all brands manufactured which were sold in this state during calendar quarter:

Part 5: Escrow Rates and Payments

For "units sold" during calendar quarter _____, 2012, the statutory escrow rate of \$.0188482 per unit sold, as adjusted by an estimated inflation rate pursuant to Exhibit C of the MSA, is \$0.0291058 per unit sold.

(a) Enter the total number from Part 3 here: _____.

(b) Multiply that amount by the \$0.0291058.

(c) Enter the total here: _____

The total amount on line (c) above must be deposited on or before thirty (30) days after the end of the calendar quarter.

Note: A copy of the bank receipt or other proof of deposit from the financial institution must be attached to verify the amount of the escrow deposit.

Part 6: Financial Institution

Name of Institution: _____

Address: _____

Escrow Account No: _____

Cumulative total amount held in this account for the State of Nebraska for all years:

Part 7: Signature

Under penalty of perjury, I state that 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 Designee: _____

Title: _____

Signature of Authorized Designee: _____

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 Nebraska Attorney General
2115 State Capitol
P.O. Box 98920
Lincoln, NE 68509-8920
Attn: Lynne R. Fritz