

STATE OF HAWAII
Department of the Attorney General
Tax Division - Tobacco Enforcement Unit
425 Queen Street
Honolulu, Hawaii 96813
(808) 586-1203

Tobacco Product Manufacturer
1999 Certificate of Compliance
Chapter 675, Hawaii Revised Statutes

I. Tobacco Product Manufacturer Certification

Manufacturer: _____
Business Address: _____

E-mail: _____ Telephone: _____
Facsimile: _____

The above named tobacco product manufacturer certifies that a qualified escrow fund has been established in accordance with §675-3(b)(3), Hawaii Revised Statutes (HRS), with a financial institution that meets the requirements of §675-2(f), HRS. The tobacco product manufacturer further certifies that for the period July 2, 1999 (the effective date of the statute) through December 31, 1999, _____ (number) cigarettes (as defined in §675-2(d)) were sold in Hawaii, either directly or through an intermediary. The amount of \$_____ has been deposited into said escrow fund. See *instructions on following page*.

*Signed and Certified by Authorized Agent of Tobacco Product Manufacturer Title Date

II. Financial Institution Certification

Financial Institution: _____
Business Address: _____

E-mail: _____ Telephone: _____
Facsimile: _____

The above named tobacco product manufacturer has deposited the amount of \$_____ into an escrow fund established for the benefit of the State of Hawaii and other releasing parties in accordance with *Chapter 675, HRS*. In accordance with §675-3(b)(2), HRS, interest or other appreciation on such money shall accrue to the benefit of the tobacco product manufacturer. The fund's principal shall be released from escrow only under circumstances allowed in §675-3(b)(2), HRS. See *instructions on following page*.

*Signed and Certified by Authorized Agent of Financial Institution Title Date

*CERTIFICATION: Read instructions on next page.

NOTE: You must attach a complete copy of the escrow agreement between the tobacco product manufacturer and the institution in which the escrow account was established.

Instructions for 1999 Certificate of Compliance

Who Must File. *Chapter 675, HRS* requires that a tobacco product manufacturer that is not a participating manufacturer, as that term is defined in sec. 11(jj) of the Master Settlement Agreement ("MSA"), must establish a qualified escrow fund for the benefit of the State of Hawaii and other releasing parties for the cigarettes it manufactured that were sold in Hawaii. The manufacturer is responsible to make escrow payments even if it did not directly sell its cigarettes into Hawaii.

Amount of Escrow. An escrow payment of \$.0097068 (adjusted for inflation) is required for each cigarette sold in Hawaii between July 2, 1999 and December 31, 1999. The adjustment for inflation (MSA, Exhibit C) for any payment due in the year 2000 is 3.00% ($$.0094241 \times 1.0300 = $.0097068$). The manufacturer must provide the number of its cigarettes that were sold in Hawaii and the amount of the escrow payment made into the fund. Funds must be placed into escrow by April 15 of the year following each calendar year in which cigarettes were sold in Hawaii. For calendar year 1999, an escrow must be established and funded by April 15, 2000.

Cigarette Defined. A cigarette is any product that contains nicotine that is intended to be burned or heated under ordinary conditions of use. Cigarette includes any roll of tobacco wrapped in paper or in any substance not containing tobacco; 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 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. 0.09 ounces of "roll-your-own" tobacco constitutes one individual "cigarette." "Roll-your-own" includes any tobacco that, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

When to File the Certificate of Compliance. The certificate of compliance must be completed at the same time the escrow funds are deposited. Certification is accomplished by completing this form and filing it by April 30, 2000 with the Attorney General. The form must be signed by the

institution where the escrow fund was established and a copy of the escrow agreement must be attached to constitute a complete filing.

Qualified Escrow Fund. The escrow fund must be governed by an escrow arrangement with a federally or state chartered financial institution having no affiliation with a tobacco product manufacturer and having assets of at least \$1,000,000,000. Escrow arrangements must require that the financial institution hold the principal of the escrow fund for the benefit of releasing parties and prohibit the tobacco product manufacturer that places money into the escrow fund from using, accessing, or directing the use of the principal of the fund except as consistent with the provisions in §675-3(b), HRS.

Sample Escrow Agreement. You may call (808) 586-1203 to obtain a copy of an escrow agreement containing the appropriate language.

Tobacco Product Manufacturer. Under §675-2(l), HRS a tobacco product manufacturer means an entity that, on or after July 2, 1999, directly, and not exclusively through an affiliate, manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer; unless such cigarettes are sold in the United States exclusively through an importer that is an original participating manufacturer as defined in the Master Settlement Agreement; or 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.

Certification. I hereby certify, to the best of my ability and under penalty of perjury that the information above is true, accurate and complete. I understand that public officials in the State of Hawaii may rely on the veracity of the information I am providing.

Where to File.

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Questions. Any questions may be directed to the above address or call (808) 586-1203.