

Article - Business Regulation

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§16–503.

(a) A tobacco product manufacturer whose cigarettes are sold in this State, whether directly or through a distributor, retailer or similar intermediary, shall execute and deliver, on a form prescribed by the Attorney General, a certification to the Attorney General no later than the 30th day of April each year, certifying under penalty of perjury that, as of the date of the certification, the tobacco product manufacturer either:

- (1) is a participating manufacturer; or
- (2) is in full compliance with the Escrow Act.

(b) (1) A participating manufacturer shall include in its certification a list of its brand families.

(2) The participating manufacturer shall update the list at least 30 calendar days prior to any addition or modification to its brand families by executing and delivering a supplemental certification to the Attorney General.

(c) (1) A nonparticipating manufacturer shall include in its certification a complete list of all of its brand families.

(2) The certification shall:

(i) separately list each brand family of cigarettes and the number of units sold for each brand family that was sold in the State during the preceding calendar year;

(ii) list each of its brand families that have been sold in the State at any time during the current calendar year;

(iii) indicate by an asterisk any brand family sold in the State during the preceding calendar year that is no longer being sold in the State as of the date of such certification; and

(iv) identify by name and address any other manufacturer of such brand families in the preceding or current calendar year.

(3) The nonparticipating manufacturer shall update the list at least 30 calendar days prior to any addition or modification of its brand families by executing and delivering a supplemental certification to the Attorney General.

(d) (1) In the case of a nonparticipating manufacturer, the certification shall further certify that the nonparticipating manufacturer:

(i) is registered to do business in the State or has appointed a resident agent for service of process and provided notice of the appointment as required by § 16–505 of this subtitle;

(ii) has established and continues to maintain a qualified escrow fund, and has executed a qualified escrow agreement that has been reviewed and approved by the Attorney General and that governs the qualified escrow fund; and

(iii) is in full compliance with the Escrow Act and this subtitle and any regulations adopted in accordance with the Escrow Act and this subtitle.

(2) The certification shall include:

(i) the name, address and telephone number of the financial institution in which the nonparticipating manufacturer has established a qualified escrow fund required under § 16–403(a)(2) of this title (the Escrow Act) and all regulations adopted under it;

(ii) the account number of the qualified escrow fund and subaccount number for the State of Maryland;

(iii) the amount the nonparticipating manufacturer placed in the fund for cigarettes sold in the State during the preceding calendar year, the date and amount of each deposit, and any additional information the Attorney General considers necessary to confirm the information required by this subparagraph; and

(iv) the amount of and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund or from any other qualified escrow fund into which the nonparticipating manufacturer made escrow payments under § 16–403(a)(2) of this title (the Escrow Act) and all regulations adopted under that section.

(e) (1) A tobacco product manufacturer may not include a brand family in its certification unless:

(i) in the case of a participating manufacturer, the participating manufacturer 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 in accordance with the Master Settlement Agreement; and

(ii) in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of the Escrow Act.

(2) Nothing in this section may be construed as limiting or otherwise affecting the State's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of the Escrow Act.

(3) The tobacco product manufacturer shall maintain all invoices and documentation of sales and any other information relied upon for its certification for a period of 5 years, unless otherwise required by law to maintain them for a greater period of time.

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