

**CERTIFICATION FOR LISTING ON DELAWARE**

**DIRECTORY (TITLE 29, CHAPTER 60D of the DELAWARE CODE) – INSTRUCTIONS**

JUS-TPM1

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Initial       Annual       Supplemental

Sales Year: 20\_\_16\_\_

PLEASE TYPE OR PRINT IN PERMANENT BLUE INK

**PART I: GENERAL BUSINESS AND OWNERSHIP INFORMATION**

**1. Applicant Tobacco Product Manufacturer Identification**

Applicant: \_\_\_\_\_

Street Address: \_\_\_\_\_

\_\_\_\_\_

Mailing Address (if different from above): \_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_ Facsimile (FAX) Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Website Address: \_\_\_\_\_

Name/Title of Person Completing Certification: \_\_\_\_\_

\_\_\_\_\_

Manufacturing Plant(s) Name and Street Address (if different from above): \_\_\_\_\_

\_\_\_\_\_

Manufacturing Plant Phone Number: \_\_\_\_\_

Manufacturing Plant Facsimile (FAX) Number \_\_\_\_\_

Name/Title/Phone Number of Person at Plant if different from above: \_\_\_\_\_

(Attach additional sheet(s), as necessary, to provide a complete response)

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.

**2. The undersigned certifies that as of the date of this Certification, the above-named applicant is: (initial one)**

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\_\_\_ a Participating Manufacturer (PM). **(If applicant is a PM, it may skip the remainder of Part I and go directly to Part II.)**

\_\_\_ a Non-Participating Tobacco Product Manufacturer (“NPM”) in full compliance with Delaware’s statutes including having made all required deposits into a Qualified Escrow Fund for all years beginning with year 1999 sales.

**3. 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.**

Yes \_\_\_ No \_\_\_

**4. 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.**

Yes \_\_\_ No \_\_\_

If the answer is “Yes,” identify each Cigarette manufacturer, (i.e., fabricator), its plant street address, mailing address, contact person, telephone, facsimile phone numbers, and the relationship 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 sheet(s), as necessary, to provide a complete response.

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**5. Applicant is a successor of an entity described in questions 3 or 4 above (i.e., manufacturer or first importer).**

Yes\_\_\_ No\_\_\_

**6. If applicant answered “no” to questions 3, 4, and 5 above, explain the basis for applicant’s claim that it is a Tobacco Product Manufacturer as defined under Section 6081(i) of Title 29 of the Delaware Code and submit all documentation to support applicant’s contention. Attach additional sheet(s), as necessary, to provide a complete response.**

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**7. Licenses/Permits:**

**Division of Revenue for the State of Delaware, License Number** as tobacco product seller: \_\_\_\_\_

Please list any additional licenses obtained from the DOR and their numbers: \_\_\_\_\_  
 Attach copies of all current and valid licenses from the DOR.

**b. U.S. Treasury, Tobacco Tax Bureau (TTB) Permit Number** as a manufacturer: \_\_\_\_\_  
 and/or an importer: \_\_\_\_\_ Attach a copy of applicant’s current permit  
 as a manufacturer or importer pursuant to 26 USC Chapter 52, and regulations issued thereunder.

**PART II: BRAND FAMILY IDENTIFICATION**

**1. Brand Family Identification**

(PMs complete column A; NPMs complete columns A through C)

<b>A. BRAND FAMILY (Indicated with an asterisk (*) those brands that will not be sold in 2016)</b>	<b>B. Units Sold in Preceding Calendar Year</b>	<b>C. Manufacturer of Brands Listed (Include complete address information)</b>

Attach additional sheet(s), as necessary, to provide a complete response. Provide a CD displaying each brand of cigarettes that applicant intends to sell in Delaware.

**2. Trademark Holder**

(If applicant is a PM, it may skip Question 2 and go directly to DECLARATION, ACKNOWLEDGEMENT AND SIGNATURE, page 14.) Provide the name, address, phone number of the trademark holder(s) of each brand listed above.

<b>Brand</b>	<b>Trademark Holder and Contact Person</b>	<b>Physical address</b>	<b>Phone</b>

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Attach additional sheet(s), as necessary, to provide a complete response.

**PART III: ADDITIONAL BUSINESS INFORMATION**

**1. Organizational Documents to Be Attached (See Instructions for list of documents required by this question)**

**2. Company Officers & Owners**

Complete the table by listing all company officers and company owners (all Persons with an equity interest of 10% or more in applicant company.) Attach additional sheet(s), as needed, to provide a complete response.

1. CHECK APPROPRIATE TITLE	<input type="checkbox"/> President <input type="checkbox"/> Partner <input type="checkbox"/> Other	<input type="checkbox"/> Vice Pres. <input type="checkbox"/> Partner <input type="checkbox"/> Other	<input type="checkbox"/> Secretary <input type="checkbox"/> Partner <input type="checkbox"/> Other	<input type="checkbox"/> Treasurer <input type="checkbox"/> Partner <input type="checkbox"/> Other
2. Full Name (first, middle, last)				
3. Street Address				
4. Telephone # and Facsimile #				
5. Date and Place of Birth				
6. E-mail Address				

**3. Affiliates (see Instructions for further information)**

Attach additional sheet(s), as necessary, to provide a complete response.

Brand Family	Affiliate Name	Type of Business	Affiliate: Street Address

**4. Applicant Information**

Please indicate whether the following statements describe applicant by circling either yes or no after the statement.

- a. Applicant sold Cigarettes in Delaware in the preceding calendar year. **YES NO**
- b. Applicant made escrow deposits pursuant to Delaware Statute (29 Del. C. Ch. 60C) in the preceding year. **YES NO**

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- c. Applicant sold in the preceding calendar year one or more of the Brand Families listed in this Certificate. **YES NO**
- d. Applicant made escrow deposits in the preceding calendar year pursuant to state law for one or more of the Brand Families listed in the Certification. **YES NO**
- e. There has been a change in manufacturer (i.e., fabricator) of one or more of the Brand Families listed in this Certification within the past two calendar years. **YES NO**
- f. Applicant advertises or sells Cigarettes via the internet or in catalogs or uses the mail or other delivery service to deliver Cigarettes to Delaware consumers. **YES NO**
- g. Applicant failed to timely comply with the Delaware Statute, 29 *Del. C.* Ch. 60C, prior to the establishment of the Directory, or at any time thereafter. **YES NO**
- h. Applicant or one of its Brand Families listed in this Certificate was previously denied listing on the Directory or was removed from the Directory. **YES NO**
- i. Applicant is enjoined or banned from selling any Cigarettes by court order, state or federal agency ruling or determination. **YES No**
- j. A Brand Family formerly sold by applicant or a Brand Family that applicant intends to sell is enjoined from sale by a state court, state agency or a federal court. **YES NO**
- k. A state or federal court has entered a judgment finding that applicant engaged in an unfair business practice or unfair competition relating to the sale of tobacco products. **YES NO**
- l. Applicant failed to timely file any completed form or document required by the laws of this State. **YES NO**

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**PART IV: MARKETING AND DISTRIBUTION INFORMATION**

**1. Tobacco Products Reclassified as Cigarette or RYO Tobacco**

List all tobacco products sold by applicant that have been reclassified within the last two years as cigarettes or as roll-your-own (RYO) tobacco by a federal agency, state or local government.

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<b>Brand Name of Reclassified Tobacco Product</b>	<b>Name of federal, state or local governmental entity that reclassified the tobacco product as a cigarette or RYO tobacco</b>	<b>Government Entity’s Street Address</b>	<b>Date of Reclassification</b>

Attach additional sheet(s), as necessary, to provide a complete response.

**2. Distributors, Wholesales And Retailers**

For each brand that applicant intends to sell, list the name and address of every Delaware distributor, wholesaler, or retailer which purchased or handled any of applicant’s Cigarette sales for that brand in Delaware in the last calendar year.

**DISTRIBUTORS**

<b>Brand Families</b>	<b>Distributor</b>	<b>Street Address</b>	<b>Telephone Number</b>

Attach additional sheet(s), as necessary, to provide a complete response.

**WHOLESALERS**

<b>Brand Families</b>	<b>Distributor</b>	<b>Street Address</b>	<b>Telephone Number</b>

Attach additional sheet(s), as necessary, to provide a complete response.

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**RETAILERS**

Brand Families	Distributor	Street Address	Telephone Number

Attach additional sheet(s), as necessary, to provide a complete response.

**3. Agreements with Participating Manufacturers (See Instructions)**

Brand Families	Distributor	Street Address	Telephone Number

Nature of Agreement(s): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attach additional sheet(s), as necessary, to provide a complete response. Attach a copy of any written contract and/or agreement.

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**4. Agreements Regarding Compliance with the MSA (See Instructions)**

Brand Families	Name	Street Address

Attach additional sheet(s), as necessary, to provide a complete response. Attach a copy of any written contract and/or agreement

**5. Agreements Regarding Compliance with the Title 29, Chapter 60C of the Delaware Code.**

Brand Families	Name	Street Address

Attach additional sheet(s), as necessary, to provide a complete response. Attach a copy of any written contract and/or agreement.

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**PART V: MANUFACTURING AND COMPLIANCE INFORMATION**

**1. Manufacturer(s)**

For each Brand Family, list the name and address of the manufacturer (i.e., fabricator) of the Cigarettes, if other than applicant. Include all company names and addresses used by manufacturer(s) in making Cigarettes for sale in the United States.

Brand	Manufacturer (i.e., fabricator)	Street Address

Attach additional sheet(s), as necessary, to provide a complete response.

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**2. Health Warning Rotation Plan**

For each Brand Family, list the name and address of the entity which filed a Cigarette health warning rotation plan with the Federal Trade Commission before the Cigarettes were distributed into the United States.

Brand	Filer	Street Address

For each brand, attach the Federal Trade Commission’s written approval of applicant’s annual Cigarette Health Warning rotation plan. Attach additional sheet(s), as necessary, to provide a complete response.

**3. Ingredient Reporting**

For each Brand Family, list the name and address of the entity which 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.

Brand	Submitter	Street Address

Attach Copies of all certificates of compliance received from the U.S. Health and Human Services for applicant’s annual ingredient reporting required by the Federal Cigarette Labeling and advertising Act (15 U.S.C. § 1335a). Attach additional sheet(s), as necessary, to provide a complete response.

**4. Cigarette Packaging**

For each Brand Family, list the name and address of the person, company, or entity that placed the Cigarettes into packages with the U.S. Surgeon General’s warnings.

Brand	Packager	Street Address

Attach additional sheet(s), as necessary, to provide a complete response.

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Provide a sample of the packaging of **each** brand family on CD.

**Check here if previously supplied packaging samples have not changed.**

**NOTE: If the manufacturer has previously supplied such packaging to the attorney general and if such packaging has not changed, samples need not be supplied this year.**

**5. Internet or Mail Order Sales (See Instructions)**

a. Websites: \_\_\_\_\_

\_\_\_\_\_

b. Physical Address: \_\_\_\_\_

\_\_\_\_\_

c. Total Sales in Delaware for the Previous Year: \_\_\_\_\_

Attach additional sheet(s), as necessary, to provide a complete response. **(Attach copies of the Jenkins Act reports filed with the State of Delaware, Division of Revenue, as specified in the Instructions.)**

**PART VI: DISCLOSURE OF ENFORCEMENT ACTIONS AND PRIOR DETERMINATIONS AFFECTING SALES TO DISTRIBUTORS**

**1. Enforcement Actions Banning or Enjoining Sales**

Has applicant or any Person or Affiliate listed in applicant's responses to Part II, question 2 and Part III, questions 2, 3 and 4 had any of its Cigarettes banned or enjoined from sale by any state of federal court or administrative agency within the U.S. jurisdiction? For every such action banning or enjoining sales list:

- (a) the Brand Family (ies) banned and/or enjoined;
- (b) the governmental entity (federal, state, local or foreign) or official or private plaintiff bring the action;
- (c) the case number;
- (d) the name and address of the government attorney or official or private plaintiff bring the action.

\_\_\_ Yes, the details of each occurrence are attached to this Certification.      \_\_\_ Not Applicable

**2. Denials, Suspensions, Revocations of Permits or Licenses**

Has applicant or any Person or Affiliate listed in applicant's responses to Part II, question 2 and Part II, questions 2, 3, and 4 been denied a permit, license, or been denied any other authorization to engage in business relating to the sale of Cigarettes by any government entity (federal, state, local or foreign) or had such permit, license or other authorization revoked, suspended, or otherwise terminated? For every such denial, suspension or revocation of a permit, license or other authorization, list:

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- (a) the name of the applicant or other Person or Affiliate that had such permit, license or other authorization revoked, suspended, or otherwise terminated;
- (b) the governmental entity (federal, state, local or foreign) that denied, suspended, or revoked such permit, license or other authorization;
- (c) the case number, if any;
- (d) the name and address of the government attorney or official or private plaintiff bringing the action.

Yes, the details of each occurrence are attached to this Certification.

Not Applicable

**3. Convictions**

Has applicant or any Person or Affiliate listed in applicant’s responses to Part II, question 2 and Part III, questions 2, 3, and 4 been convicted of any crime under federal, state or foreign laws in connection with the sale of Cigarettes? For every such conviction, list:

- (a) the name of the applicant or other Person or Affiliate convicted;
- (b) the governmental entity (federal, state, local or foreign) that prosecuted applicant or other Person or Affiliate;
- (c) the case number;
- (d) the name and address of the government attorney or official that prosecuted applicant or other Person or Affiliate

Yes, the details of each occurrence are attached to this Certification.

Not Applicable

**4. Denial of Listing**

Has applicant or any Person or Affiliate listed in applicant’s responses to Part II, question 2 and Part III, questions 2, 3, and 4 been denied listing on any state directory which is similar to the subject of this Certification? For every denial, list:

- (a) the name of the applicant or other Person or Affiliate denied listing on a state directory;
- (b) the Tobacco Product Manufacturer and/or Brand Family(ies) denied listing; and
- (c) the state which denied listing.

Yes, the details of each occurrence are attached to this Certification.

Not Applicable

**5. Escrow Fund Statute Compliance**

Has applicant or any Person or Affiliate listed in applicant’s responses to Part II, question 2 and Part III, questions 2, 3, and 4 been involved as an officer or owner of any other tobacco company or Affiliate which has not made its escrow deposits as a Non-Participating Manufacturer under the state escrow fund statute? For every such occurrence, list:

- (a) the name of the applicant or other Person or Affiliate that has not satisfied its NPM escrow fund obligations;
- (b) the Brand Families for which there was as failure to comply; and
- (c) the amounts of any escrow deposits that are still owed.

Yes, the details of each occurrence are attached to this Certification.

Not Applicable

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**PART VII: IMPORTED CIGARETTES – DOCUMENTATION & VERIFICATION****1. U.S. Customs Documents**

If the Cigarettes applicant sells or intends to sell are not made in the United States, provide the documents listed in a-c:

- a. A copy of the sworn statement of the original manufacturer that it will timely submit ingredients to the Secretary of Health and Human Services as required by 19 U.S.C. § 1681a(c)(1).
- b. A copy of the importer's certificate under penalty of perjury as required by 19 U.S.C. § 1681a(c)(2) regarding the precise format of warnings and the rotation plan for health warnings.
- c. A copy of the trademark holder's certificate under penalty of perjury that it has not withdrawn consent to import into the United States as required by 19 U.S.C. § 1681a(3)(A) **OR** a copy of the importer's certificate under penalty of perjury that the trademark owner has not withdrawn consent to import into the United States as required by 19 U.S.C. § 1681a(c)(3)(B).

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**PART VIII: NPM APPLICANT CERTIFICATION****1. AGENT FOR SERVICE OF PROCESS**

- a. Is applicant domiciled in the State of Delaware?  Yes  No
- b. Is applicant a non-resident or foreign NPM that has registered to do business in Delaware as a foreign corporation or business entity?  Yes  No
- d. If applicant answered "no" to questions "a" and "b" above, applicant must appoint a resident agent for service of process by submitting a complete **NOTICE OF APPOINTMENT OF REGISTERED AGENT AND REGISTERED AGENT'S STATEMENT (JUS-TPM2)**.

**2. QUALIFIED ESCROW FUND-FINACIAL INSTITUTION**

Applicant certifies that of the dated of this Certification, applicant:

- a. Has established and continues to maintain a Qualified Escrow Fund.  Yes  No
- b. Has executed a Qualified Escrow Agreement that has been reviewed and approved by the Attorney General for the State of Delaware and that governs the Qualified Escrow Fund for the State of Delaware.  Yes  No

(Note: The NPM must certify satisfaction of both the above-referenced requirements regarding the Qualified Escrow Fund to be eligible for the Directory.) Delaware’s Escrow Agreement is available on the Attorney General’s website at: <http://www.state.de.us/attgen/>.

State of Delaware

Department of Justice

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**3. QUALIFIED ESCROW FUND DEPOSIT/WITHDRAWAL HISTORY FOR DELAWARE**

DATE	DEPOSIT	WITHDRAWAL	BALANCE

Attach additional sheet(s), as necessary, to provide a complete response.

**NOTE: THIS CERTIFICATION WILL NOT BE PROCESSED OR  
CONSIDERED UNTIL ALL THE REQUIRED DOCUMENTS ARE SUBMITTED. PLEASE  
INCLUDE THE MOST RECENT SIGNED STATE OF DELAWARE ESCROW AGREEMENT  
WITH YOUR SUBMISSION.**

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**DECLARATION, ACKNOWLEDGEMENT AND SIGNATURE**

Under penalty of criminal prosecution under the laws of Delaware, I declare and acknowledge that:

1. I have read the Instructions for this Certification for Listing on Delaware Directory.
2. I understand that the Attorney General may require additional information and/or documentation to determine if applicant is qualified for listing on the Delaware Directory.
3. Applicant will immediately notify the Tobacco Litigation & Enforcement Unit in the Attorney General’s Office (Office of the Attorney General for the State of Delaware, Department of Justice, Carvel Office Building, 820 N. French Street, 5<sup>th</sup> Floor, Wilmington, DE 19801) if any information on this Certificate changes before the Attorney General approves the Certification.
4. This Certification must be signed by a qualified company officer or other such individual authorized to bind the applicant company. My position with the company and my actual authority to certify on behalf of applicant meets the foregoing requirements.
5. 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.

Name of Authorized Officer: \_\_\_\_\_

Title: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Signature of Authorized Officer: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

COUNTRY OF \_\_\_\_\_ )

On \_\_\_\_\_, before me, \_\_\_\_\_, personally appeared evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

My Commission expires: \_\_\_\_\_

This Certification must be filed with the Attorney General’s Office:

**State of Delaware  
Office of the Attorney General  
Department of Justice  
820 N. French Street, 5<sup>th</sup> Fl  
Wilmington, DE 19802**