

**CERTIFICATION FOR LISTING ON DELAWARE  
DIRECTORY (29 Del. C. Ch. 60D) – INSTRUCTIONS**

JUS-TPM1

Page 1 of 6

**GENERAL INSTRUCTIONS**

**Who is required to file this Certification (JUS-TPM1)?**

Tobacco Product Manufacturers whose Cigarettes are sold in Delaware, whether directly or through any distributor, retailer, or similar intermediary, are required to complete this form (JUS-TPM1).

This Certification is in addition to the Non-Participating Manufacturer (“NPM”) Certificates of Compliance pursuant to and Title Twenty-nine, Chapter 60C and its Enforcement Provisions under Chapter 60D, required by the State of Delaware’s Tobacco Settlement Act of 1999, and Title 30, Section 5346, (Tobacco Product Tax; Subchapter IV, Penalties & Enforcement: Prohibitions), of the Delaware Code.

The answers provided in this Certificate, when completed, must be reviewed and signed by an officer with the authority to bind the applicant company.

**When is this Certification due?**

Every Tobacco Product Manufacturer currently selling in Delaware must file a Certification (JUS-TPM1) no later than April 30, 2017. After April 30, 2017, Tobacco Product Manufacturers that intend to sell Cigarettes in Delaware shall file a Certificate and qualify for listing on the Directory prior to any sales in Delaware. Tobacco Product Manufacturers listed on the Directory must file this form on or before April 30<sup>th</sup> each year.

Supplemental Certifications: In completing a supplemental Certification, applicant must check the “Supplemental” box at the top of page one, enter only the new or changed information, then sign and date the supplemental Certification form. A Tobacco Product Manufacturer shall file a supplemental Certification (JUS-TPM1) no later than thirty days prior to any change in a fabricator for any Brand Family or any addition to or modification of its Brand Families by executing and delivering the supplemental Certification to the Attorney General. In all other circumstances in which information provided on the Certification becomes inaccurate, a supplemental Certification must be filed within thirty (30) days after the information becomes inaccurate.

**Where Must This Certification Be Filed?**

This Certification must be filed with the Attorney General’s Office and include the most recently executed State of Delaware Escrow Agreement:

Mailing Address:

**State of Delaware  
Office of the Attorney General  
Department of Justice  
Attn.: Thomas E. Brown  
Deputy Attorney General  
Tobacco Litigation & Enforcement  
Carvel Office Building  
820 North French Street, 5<sup>th</sup> Fl  
Wilmington, Delaware 19801**

Updated: 01032017

**CERTIFICATION FOR LISTING ON DELAWARE  
DIRECTORY (29 Del. C. Ch. 60D) – INSTRUCTIONS**

JUS-TPM1

Page 2 of 6

**Definitions:**

Pursuant to 29 Del. C. Ch. 60C:

(a) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person as defined in subsection (b) of Section 6081.

(b) "Affixing agent" means a person who is authorized to affix tax stamps to packages or other containers of cigarettes under Chapter 53 of Title 30 or any person that is required to pay the excise tax imposed pursuant to Chapter 53 of Title 30 on Cigarettes.

(c) "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol", "lights", "kings", and "100s", and includes any brand name (alone or in conjunctions with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of Cigarettes.

(d) "Cigarette" has the same meaning as in Section 6081(d) of this title. (Roll-your-own "RYO" tobacco is included in the definition of cigarette under Section 6081.)

(e) "Department" means the Department of Finance for the State.

(f) "Directory" means the listing of all Tobacco Product Manufacturers that have provided current and accurate certifications conforming to the requirements of Chapter 60C of the Delaware Tobacco Settlement Act of 1999 and all Brand Families that are listed in such certifications.

(g) "MSA" means Master Settlement Agreement as defined in Section 6081(e) of this title.

(h) "Non-Participating Manufacturer" means any tobacco product manufacturer that is not a participating manufacturer.

(i) "Participating Manufacturer" has the same meaning given to that term in Section II (jj) of the master settlement agreement and all amendments thereto.

(j) "Qualified escrow fund" has the same meaning given to that term in Section 6081(f) of this title.

(k) "Tobacco product manufacturer" has the same meaning given to that term in Section 6081(i) of this title.

(l) "Units sold" has the same meaning given to that term in section 6081(j) of this title.

**This Certification and other required forms must be completed in English. For all attachments required by this Certification, if the original document is in a language other than English, a true and correct translation into English must be attached as well.**

**All Attachments to this Certification must indicate to which question it corresponds.**

**If any section of this Certification is not applicable to your company, be sure to check the box “not applicable” where relevant.**

**ANY PERSON WHO MAKES AN ASSERTION IN THIS CERTIFICATION THAT HE OR SHE KNOWS IS FALSE REGARDING A MATERIAL MATTER IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT OR A FINE, OR BOTH.**

### **SPECIFIC INSTRUCTIONS**

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

##### **Questions 3-6: Tobacco Product Manufacturer**

**If an applicant answered “no” to question 3, 4, and 5, applicant must provide an explanation for its assertion that it is a Tobacco Product Manufacturer in its response to question 6.**

#### **PART II. BRAND FAMILY IDENTIFICATION:**

**1. Brand Family Identification:** Identify by Brand Family all of the Cigarettes that the Tobacco Product Manufacturer intends to sell in Delaware, whether directly or through any distributor, retailer, or similar intermediary, and seeks to have included in the Directory. Only the brands identified may be included in the Directory. A Participating Manufacturer shall list all of its Brand Families. By listing a Brand Family, the Participating Manufacturer affirms that the Brand Family is deemed to be its Cigarettes for the purpose of calculating its payments under the MSA for the relevant year. The Participating Manufacturer shall update such list at least thirty (30) calendar days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental Certification (JUS-TPM1) to the Attorney General and Department of Finance for the State of Delaware (Department).

A Non-Participating Manufacturer (“NPM”) shall include in its Certification (i) a list of all of its Brand Families and the number of Units Sold for each Brand Family that were sold in the State during the preceding calendar year, (ii) a list of all of its Brand Families that have been sold in the State at any time during the current calendar year, (iii) indicating by 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) identifying by name and address any other manufacturer of such Brand Families

**CERTIFICATION FOR LISTING ON DELAWARE  
 DIRECTORY (29 Del. C. Ch. 60D) – INSTRUCTIONS**  
 JUS-TPM1  
 Page 4 of 6

in the preceding or current calendar year. The NPM shall update such list thirty (30) calendar days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental Certification to the Attorney General or Department. By listing a Brand Family, the NPM affirms that the Brand Family is deemed to be its Cigarettes for the purpose of calculating its escrow obligation pursuant to Chapter 60C of Title Twenty-nine of the Delaware Code.

**PART III: BUSINESS AND OWNERSHIP INFORMATION: (NPM Applicants Only)**

**1. Organizational Documents to Be Attached:**

If Applicant is a:	Attach to Certification:
Partnership or association	Current copy of articles, if any, OR the certificate required to be filed by any state, country or municipality.
Corporation	1. Current copy of the corporate charter OR certificate of corporate existence or Incorporation. This copy must be executed by the appropriate state officer for the jurisdiction in which incorporated. 2. Extracts of stockholders’ meetings, bylaws, directors’ meetings or other documents that list the officers authorized to sign documents or otherwise act on behalf o the corporation. The accuracy of the copy must be certified by an appropriate officer of the corporation.
Limited liability company or other business organization	Current copy of the business document(s) filed with a state, county or municipality when such filing is required. The copy must be certified by an appropriate government agency. A limited liability company must provide an accurate copy of its operating agreement.

**3. Affiliates.** Identify any affiliate that also manufactures, imports, distributes, or sells Cigarettes or other tobacco products in Delaware by completing the table on the application. For purposes of this Certification & Application for Listing, the term “owns” means ownership of an equity interest, or the equivalent thereof, of 10 percent or more. List the names of the brands and the affiliate in the first two columns. List the type of business by writing in the third column (Type of Business): “m” for manufacturer. “i” for importer, “d” for distributor, and “w” for wholesaler.

**PART IV: MARKETING AND DISTRIBUTION INFORMATION: (NPM Applicants Only)**

**2. Distributors, Wholesalers and Retailers**

**3. Agreements with Participating Manufacturers.** Identify every agreement between applicant and any Participating Manufacturer (PM) or Affiliate of a PM which relates to the making, importing, distributing, transportation or sale of a Brand Family. List the Brand Family and the name, address and phone number of the PM involved in any agreement. For each Brand Family, describe the agreement or arrangement with any PM or Affiliate or a PM in the making, importing, distribution, transportation or sale of the Brand Family, and provide the name and address of the PM(s), subsidiary(ies), Affiliate(s) or partner(s). A list of Participating Manufacturers is available on the NAAG website at <http://www.naag.org>. Attach a copy of any written contract(s) and/or agreements(s).

**CERTIFICATION FOR LISTING ON DELAWARE  
DIRECTORY (29 Del. C. Ch. 60D) – INSTRUCTIONS**

JUS-TPM1

Page 5 of 6

**4. Agreements Regarding Compliance with the MSA.** List every Brand Family that is the subject of an agreement regarding compliance with the MSA and the name, address and phone number of the PM involved in such agreement(s). Attach a copy of any written contract(s) and/or agreement(s).

**5. Agreement Regarding Compliance with 29 Del. C. Ch. 60C.** List every Brand Family that is the subject of an agreement regarding compliance with 29 Del. C. Ch. 60C and the name, address and phone number of the person or entity with whom applicant has a contractual agreement concerning compliance with 29 Del. C. Ch. 60C. Attach a copy of any written contract(s) and/or agreement(s)

**PART V: MARKETING AND COMPLIANCE INFORMATION: (NPM Applicants Only)**

**6. Internet or Mail Order Sales.** If applicant intends to sell any Cigarettes by mail order or through the internet, list and describe: (a) any website advertising for the tobacco product, (b) the address from where the Cigarettes will be shipped, and (c) the total sales in Delaware in previous year.

ATTACH COPIES OF JENKINS ACT REPORTS. If applicant is applying for listing on Delaware's Directory for the first time, attach copies of all reports, if any, filed with the State of Delaware, Division of Revenue to comply with the Jenkins Act (Chapter 10A of Title 15 of the U.S. Code, Section 375 et seq.) for sales in the preceding 12 months. If the applicant has already been listed on Delaware's Directory, but is applying to list other or new Brand Families, attach copies of the annual Certifications of Compliance pursuant to 29 Del. C. § 6082, and 30 Del. C. § 5346, and the Jenkins Act reports for sales of the already listed Brand Families for the period of time reported in applicant's annual Certification of Compliance.

**PART VI: DISCLOSURE OF ENFORCEMENT ACTIONS TO DELAWARE PURCHASERS:  
(NPM Applicants Only)****PART VIII: NPM APPLICANT CERTIFICATION:****1. AGENT FOR SERVICE OF PROCESS**

Certify whether the NPM is (1) domiciled in the State of Delaware; (a) a non-resident or foreign NPM that has not registered to do business in Delaware as a foreign corporation or business entity shall as a condition precedent to having its Brand Families included or retained in the Directory, appoint and continually engage without interruption the services of an agent in this State to act as agent for service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of Chapter 60D and Chapter 60C of Title 29 of the Delaware Code, may be served in any manner authorized by law. Such Service shall constitute legal and valid service of process on the Non-Participating Manufacturer. The NPM shall provide the name address, phone number and proof of the appointment and availability of such agent to the satisfaction of the Attorney General.

State of Delaware

Department of Justice

**CERTIFICATION FOR LISTING ON DELAWARE  
DIRECTORY (29 Del. C. Ch. 60D) – INSTRUCTIONS**  
JUS-TPM1  
Page 6 of 6

**Mail the original Certification (JUS-TPM1) and a complete copy of all required forms and documents to:**

Mailing Address:

**State of Delaware  
Office of the Attorney General  
Department of Justice  
Attn.: Thomas E. Brown  
Deputy Attorney General  
Tobacco Litigation & Enforcement  
Carvel Office Building  
820 North French Street, 5<sup>th</sup> Fl  
Wilmington, Delaware 19801**