

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
Office of the Chief Financial Officer



March 19, 2013

**NOTICE TO TOBACCO PRODUCT MANUFACTURERS**

Any tobacco product manufacturer that manufactures cigarettes that are sold in the District of Columbia (city of Washington, DC) must comply with the District of Columbia's Tobacco Settlement Model Act of 2000 ("Act") (D.C. Official Code §§ 7-1801.01 and 7-1801.02 (2001)).

The Act seeks to guarantee a source of funds to pay any judgment or settlement that could result from the District of Columbia pursuing certain legal claims against tobacco product manufacturers that have not joined the tobacco industry's "Master Settlement Agreement" with 46 U.S. states, the District of Columbia, and several U.S. territories. Similar laws have been enacted in all U.S. states since 1999. An earlier version of the Act became effective in the District of Columbia on June 30, 1999. "Exhibit C" to the Master Settlement Agreement sets forth the "formula for inflation adjustment" to which the Act refers. Copies of the current version of the Act and "Exhibit C" are posted on the District of Columbia Government's web site at [www.cfo.dc.gov](http://www.cfo.dc.gov) (click on "Tobacco Directory," then "Manufacturer and Wholesaler Forms and Instructions").

The Act requires a tobacco product manufacturer to establish a special escrow account if the manufacturer (1) has *not* joined the Master Settlement Agreement, and (2) makes cigarettes that are sold in the District of Columbia (whether sold by the manufacturer directly or through a distributor, retailer, or similar intermediary or intermediaries). The Act defines "cigarette" to include "roll-your-own" tobacco; 0.09 ounces of "roll-your-own" tobacco counts as one "cigarette." For the complete definitions of "tobacco product manufacturer" and "cigarette," as well as other applicable definitions, see the Act.

A tobacco product manufacturer, if required by the Act to establish a special escrow account, must deposit U.S. funds into a "qualified escrow fund" by April 15 of each year. **The amount that is required to be deposited by April 15, 2013, is equal to \$0.0188482 multiplied (1) by the number of cigarettes made by the manufacturer that were sold in the District of Columbia during the year 2012, and (2) by an inflation adjustment of 1.5442219.** For purposes of these calculations, the number of cigarettes sold in the District of Columbia is measured by excise taxes collected by the District of Columbia on packs bearing the excise tax stamp of the District of Columbia, or Other Tobacco Products tax on "roll-your-own" tobacco containers.

To determine how to calculate the amounts to be deposited in years prior to 2013, multiply the number of cigarettes made by the manufacturer that were sold in the District of Columbia for that year by the applicable statutory per stick amount and inflation adjustment, as set forth in the table below:

<b>Deposit Due Date</b>	<b>Statutory Per Stick Amount</b>	<b>Inflation Adjustment</b>
April 15, 2000	\$ 0.0094241	1.03
April 15, 2001	\$ 0.0104712	1.0648841
April 15, 2002	\$ 0.0136125	1.0968306
April 15, 2003	\$ 0.0136125	1.1297355
April 15, 2004	\$ 0.0167539	1.1636276
April 15, 2005	\$ 0.0167539	1.2015102
April 15, 2006	\$ 0.0167539	1.2425497
April 15, 2007	\$ 0.0188482	1.2798262
April 15, 2008	\$ 0.0188482	1.3320594
April 15, 2009	\$ 0.0188482	1.3720212
April 15, 2010	\$ 0.0188482	1.4131818
April 15, 2011	\$ 0.0188482	1.4555773
April 15, 2012	\$ 0.0188482	1.4992446

To be a “qualified escrow fund,” the escrow arrangement must be with a financial institution that (1) is chartered by the United States, a U.S. state, or the District of Columbia, (2) has no affiliation with any tobacco product manufacturer, and (3) has assets of at least \$1,000,000,000 (U.S. dollars). See the definition of “qualified escrow fund” in the Act. A tobacco product manufacturer that places funds into escrow is entitled to receive the interest or other appreciation on the funds as earned. Except as provided by Section 3 of the Act, no funds may be released from the escrow arrangement.

In addition, a tobacco product manufacturer that elects to comply with the Act by placing funds into escrow is required to certify annually in writing to the District of Columbia’s Chief Financial Officer (c/o Tobacco Certifications, Office of the Attorney General) that the manufacturer is in compliance with the Act. **To be timely, a certification of compliance with the Act must be delivered or postmarked by May 15 at Tobacco Certifications, Office of the Attorney General for the District of Columbia, Public Advocacy Section, 441 4<sup>th</sup> Street, NW, Suite 650-S, Washington, DC 20001, U.S.A.**

The District of Columbia does not provide a special form for the certification of compliance with the Act. Each certification of compliance should be in the form of a letter that states:

- (1) the full name and address of the manufacturer;
- (2) the full name of the company official responsible for the certification;
- (3) the full name and address of the financial institution holding the qualified escrow fund;
- (4) disclosure of how the amount required by law to be deposited in the qualified escrow fund (since the last annual certification) was calculated;

- (5) the date and amount of each deposit of funds into the qualified escrow fund (since the last annual certification);
- (6) the date and amount of each payment of interest or other appreciation from the qualified escrow fund (since the last annual certification); and
- (7) the total amount of funds currently held in the qualified escrow fund (*attach a copy of the most recent account statement from the financial institution*).

The certification of compliance should be signed as follows:

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on (date). (Signature of company official)

Alternatively, a tobacco product manufacturer that elects to comply with the Act who also wishes to comply with the terms of the District of Columbia's Tobacco Product Manufacturer Reserve Fund Complementary Procedures Act of 2004 ("Complementary Act"), may fulfill both Acts' certification requirements through timely submission of the Complementary Act's Annual Tobacco Product Manufacturer Certification form. This form and instructions are posted on the District of Columbia Government's web site at [www.cfo.dc.gov](http://www.cfo.dc.gov) (click on "Tobacco Directory," then "Manufacturer and Wholesaler Forms and Instructions", then "Form"). **To be timely, a certification of compliance with the Complementary Act must be delivered or postmarked by April 13 at Tobacco Certifications, Office of the Attorney General for the District of Columbia, Public Advocacy Section, 441 4<sup>th</sup> Street, NW, Suite 650-S, Washington, DC 20001, U.S.A.**

If this Notice is inconsistent with any provision of the Act, the provision of the Act controls. Any tobacco manufacturer with a question about the Act or about the Master Settlement Agreement may (1) send a written inquiry to Tobacco Statute Enforcement, Public Advocacy Section, D.C. Office of the Attorney General, Public Advocacy Section 441 4<sup>th</sup> Street, NW, Suite 650-S, Washington, DC 20001, U.S.A., or (2) fax a written inquiry to Tobacco Statute Enforcement, Public Advocacy Section, D.C. Office of the Attorney General at (202) 741-8779 (U.S.A.). All inquiries should be in English, and should include the manufacturer's name and address, contact person, telephone number, facsimile number, and e-mail address.