



OFFICE OF THE KANSAS ATTORNEY GENERAL

120 SW 10th Ave, 2nd Floor • Topeka, Kansas 66612-1597

Tel 785-368-6289 • Fax 785-296-5010

Email tobacco@ag.ks.gov • Web www.ag.ks.gov/tobacco

NON-PARTICIPATING MANUFACTURER CERTIFICATION

TYPE OF CERTIFICATION

_____ INITIAL

_____ SUPPLEMENTAL

_____ RENEWAL

MANUFACTURER INFORMATION

MANUFACTURER _____

MAILING ADDRESS _____

STREET ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

WEBSITE _____

FEDERAL TAX ID # _____

DESIGNATED CONTACT

Identify the person you wish to receive all correspondence and official notifications.

CONTACT NAME _____ TITLE _____

ORGANIZATION _____

MAILING ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

IMPORTER INFORMATION

Complete this section only if you are a manufacturer located outside the United States.

IMPORTER NAME _____

CONTACT NAME _____ TITLE _____

MAILING ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

FEDERAL TAX ID # _____

Pursuant to K.S.A. 2015 Supp. § 50-6a04(c)(3)(I), a manufacturer must complete and submit an Importer Declaration for each entity who imports its brand families into the United States to be sold in Kansas. The form is available at www.ag.ks.gov/tobacco.

RESIDENT AGENT FOR SERVICE OF PROCESS

RESIDENT AGENT _____

MAILING ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

ESCROW FUND INFORMATION

FINANCIAL INSTITUTION _____

CONTACT NAME _____ TITLE _____

MAILING ADDRESS _____

PHONE NUMBER _____ FAX NUMBER _____

EMAIL ADDRESS _____

PRIMARY ESCROW ACCOUNT NUMBER _____

KANSAS SUB-ACCOUNT NUMBER(S) _____

EXECUTION DATE OF MOST RECENT ESCROW AGREEMENT _____

AMOUNT DEPOSITED INTO ESCROW FOR PREVIOUS SALES YEAR _____

TOTAL UNITS SOLD IN KANSAS IN PREVIOUS SALES YEAR _____

BRAND FAMILIES TO BE REMOVED

List all cigarette and RYO tobacco brand families currently listed on the Kansas Directory of Compliant Non-Participating Manufacturers that you wish to be removed, if any.

STAMPING AGENT INFORMATION

List the name and address of each stamping agent, wholesaler and distributor: (1) that sold manufacturer's cigarettes or RYO tobacco in Kansas, (2) shipped manufacturer's cigarettes or RYO into Kansas in the previous calendar year, or (3) that intends to sell or ship in the current calendar year. Attach supporting documentation as needed.

STAMPING AGENT NAME	STAMPING AGENT ADDRESS	BRAND FAMILIES SOLD

BRAND FAMILIES TO BE CERTIFIED

Complete this page for each brand family you wish to certify.
List one (1) brand family per page. Attach additional pages as needed.

Page ____ of ____

BRAND FAMILY INFORMATION

Mark an "X" in the appropriate spaces below.

Brand Family _____ Cigarette _____ RYO _____

CURRENT MANUFACTURER

_____ The certifying manufacturer actually manufactures the brand family identified above.

_____ A different manufacturer, other than the certifying manufacturer, actually manufactures the brand family identified above. *Attach contract manufacturing agreements between the certifying manufacturer and the actual manufacturer for the brand family identified above.*

PREVIOUS MANUFACTURER

_____ Provide the name and address of any manufacturer, other than the certifying manufacturer, who actually manufactured the brand family identified above at any time during the previous calendar year.

Name _____

Address _____

_____ Not applicable.

TRADEMARK INFORMATION

_____ Manufacturer owns a United States Registered Trademark for the brand family identified above.

Trademark serial or registration number _____

_____ Manufacturer does NOT own a United States Registered Trademark for the brand family identified above. *Attach any written contracts or agreements with the trademark holder authorizing the manufacture of the brand family identified above.*

Trademark serial or registration number _____

_____ A United States Registered Trademark does not exist for the brand family identified.

ACKNOWLEDGMENT OF ADDITIONAL REQUIREMENTS

Initial your acknowledgment. Mark "N/A" if not applicable.

- _____ Manufacturer acknowledges that it is responsible for complying with all federal and state regulations, including the Federal Prevent All Cigarette Trafficking Act and the Federal Family Smoking Prevention and Tobacco Control Act.
- _____ Manufacturer acknowledges that any cigarettes in this certification that are not also certified under the Fire Safety Standards and Firefighter Protection Act, K.S.A. 31-601 *et seq.*, are not legal for sale in Kansas.
- _____ Manufacturer acknowledges that it is aware of amendments to the Kansas MSA Escrow Statutes, K.S.A. 2015 Supp. § 50-6a01 *et seq.*, passed by the Kansas Legislature in June of 2015, including but not limited to changes to the definition of "units sold," additional annual certification requirements and enhanced criminal penalties for certain violations.

SUPPLEMENTAL DOCUMENTATION

Submit all required attachments with this form. Mark an "X" in the appropriate spaces below.

Attached N/A

- _____ **Annual Directory Fee Payment.** Provide a \$500 check to the Office of the Kansas Attorney General for the annual directory fee per K.S.A. 2015 Supp. § 50-6a04(6)(c).
- _____ **CDC Approval Letter.** Provide a copy of the current United States Center for Disease Control (CDC) ingredient listing compliance letter(s) for each cigarette brand family. If a current letter is not yet available, provide a copy of your written request to the CDC.
- _____ **Contract Manufacturing Agreements.** Provide a copy of the contract manufacturing agreement(s) for any brand family that is manufactured by an entity other than the certifying manufacturer.
- _____ **Escrow Account Documentation.** Provide verification of each deposit, withdrawal, or transfer made into or from your qualified escrow fund in the previous calendar year, including the amount and date of each deposit, withdrawal, or transfer.
- _____ **Escrow Agreement.** Provide a copy of the manufacturer's current Escrow Agreement including any amendments or attachments to such agreement.

_____ **FTC Approval Letter.** Provide a copy of the current United States Federal Trade Commission (FTC) approval letter(s) for health-warning rotation plan(s) for each of the cigarette brand families. If a current letter is not yet available, provide a copy of your written request to the FTC.

_____ **Packaging Samples.** Provide packaging samples—electronic or physical—for each cigarette or RYO tobacco brand family. If the packaging samples provided with the previous year’s certification are unchanged, you may disregard this requirement.

_____ **Resident Agent Letter.** Provide a current letter from the resident agent accepting appointment as agent for service of process in the state of Kansas.

_____ **TTB Permit.** Provide a copy of the manufacturer’s or first importer’s United States Alcohol and Tobacco Tax and Trade Bureau (TTB) permit.

_____ **United States Importer Declaration Form.** Provide an original United States Importer Declaration Form executed by each entity who imports any of manufacturer’s brand families into the United States to be sold in Kansas.

INDIAN TRIBE AFFILIATION

Please answer the following questions by marking ‘yes’ or ‘no’ after each question.

- Is Applicant an Indian Tribe?
- Is Applicant a federally recognized Indian Tribe?
- Is Applicant a corporation formed under Tribal Law?
- Is Applicant affiliated with an Indian Tribe?
- Is Applicant owned by members of an Indian Tribe?
- Does Applicant have a facility or business premises located on Tribal land?
- Does Applicant have or make a claim of Tribal sovereign immunity?

If your answer to any of these questions is ‘yes,’ please complete the following waiver of tribal sovereign immunity.

_____ hereby waives its sovereign immunity against suit, liability, judgment and collection with respect to the obligations and duties of _____ under K.S.A. 2015 Supp. § 50-6a01 *et seq.*

VERIFICATION OF CERTIFICATION

I certify, to the best of my knowledge, that all information contained in this certification and any attachments are true and accurate, and that I am authorized, under the laws of the state of Kansas or the jurisdiction where the manufacturer resides or is organized, to bind the manufacturer making this certification.

I certify that manufacturer is in full compliance with K.S.A. 2015 Supp. § 50-6a03(b), and amendments thereto, and any rules or regulations promulgated pursuant to K.S.A. 2015 Supp. § 50-6a01 *et seq.*

I certify that, for any brand family acquired from a previous manufacturer, all previous escrow payments required by K.S.A. 50-6a03 have been paid in full.

I certify that manufacturer is either registered to do business in the state of Kansas, or manufacturer has appointed a resident agent for service of process in Kansas.

I certify that manufacturer has established and continues to maintain a qualified escrow fund, and that manufacturer has executed an escrow agreement that governs the qualified escrow fund and that such escrow agreement has been reviewed and approved by the Kansas Attorney General.

I certify that manufacturer consents to the jurisdiction of the District Court of the Third Judicial District, Shawnee County, Kansas, for the purposes of enforcing K.S.A. 2015 Supp. § 50-6a01 *et seq.*

I certify that by including a brand family in this certification, manufacturer affirms that the brand family is deemed to be its cigarettes for purposes of calculating its escrow payments pursuant to K.S.A. 2015 Supp. § 50-6a03(b), including any brand families for which manufacturer does not own a United States Registered Trademark nor an exclusive right of use.

I certify that all sales or shipments within or into the state of Kansas by manufacturer and its affiliates, including importers and stamping agents, will be made only to stamping agents or retailers that are licensed by the state of Kansas or made pursuant to the terms and conditions of a valid tribal compact in effect with the state of Kansas.

I certify that manufacturer is in compliance with all reporting and registration requirements of 15 U.S.C. § 375 *et seq.*, known as the Federal Prevent All Cigarette Trafficking Act (Pact Act), and that manufacturer will provide copies of all reports required by 15 U.S.C. § 376 and § 376a, regardless of sales or shipments, on monthly basis to the Kansas Department of Revenue and the Kansas Attorney General in the electronic format prescribed by the Kansas Department of Revenue.

I certify under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct.

Executed this _____ day of _____, 20_____.

Signature of Authorized Officer or Agent

Name (*Please Print*)

Title (*Please Print*)