



Instructions for Forms CG-30, CG-30.1, and CG-30.2

Certification of Tobacco Master Settlement Agreement Status

General information

Every tobacco product manufacturer whose cigarettes or roll-your-own (RYO) tobacco are sold for consumption in New York State (NYS) must issue a certification annually using Form CG-30 to:

- the Commissioner of Taxation and Finance;
- the Attorney General of NYS;
- every licensed cigarette stamping agent who will sell the manufacturer's products in New York State; **and**
- any distributor of the manufacturer's RYO tobacco.

Each tobacco product manufacturer must certify, under penalty of perjury, that it is either:

- a participating manufacturer in the Tobacco Master Settlement Agreement as defined in Public Health Law (PHL) section 1399-pp and has generally performed its financial obligations under the Tobacco Master Settlement Agreement; **or**
- a non-participating manufacturer as defined in the Tobacco Master Settlement Agreement in full compliance with the provisions of PHL section 1399-pp, including all required escrow deposits.

Definitions

For purposes of this certification, PHL section 1399-oo defines a *tobacco product manufacturer* as an entity that directly (and not exclusively through any affiliate) manufactures cigarettes that it intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer. A tobacco product manufacturer also includes the first purchaser anywhere for resale in the United States of cigarettes that are manufactured anywhere and that the original manufacturer did not intend to be sold in the United States. A successor of a tobacco product manufacturer is also a tobacco product manufacturer.

The PHL defines *cigarette* as any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

- any roll of tobacco wrapped in any substance not containing tobacco; **or**
- tobacco in any form that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette; **or**
- any roll of tobacco wrapped in any substance containing tobacco, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to or purchased by consumers as a cigarette described in the first paragraph of this definition; **or**
- RYO tobacco (i.e., any tobacco, which, because of its appearance, type, packaging or labeling, is suitable for use and likely to be offered to or purchased by consumers as tobacco for making cigarettes). For purposes of this definition of *cigarette*, 0.09 ounces of RYO tobacco shall constitute one individual cigarette (stick).

For a complete definition of *tobacco product manufacturer* and other associated terms, see PHL section 1399-oo.

When must certifications be filed?

Annual certifications — Certifications must be filed annually, no earlier than **April 16** and no later than **April 30** of each year.

Products introduced after April 30 by a manufacturer who is currently certified — If a tobacco product manufacturer adds any brand(s) to be sold for consumption in NYS after filing its annual certification, the manufacturer must file amended Forms CG-30 and CG-30.1-X, *Additional Information Regarding Brands Sold in New York State*. These forms must be filed **before** the first sale of the additional brand(s) in NYS. The certification must cover the period of the previously filed current certification through the date of the amended certification.

First introduction of a manufacturer's products in NYS

A tobacco product manufacturer is **not required** to file a certification if its products are not sold in NYS. If a tobacco product manufacturer intends to introduce products into NYS, the manufacturer must file certification Forms CG-30 and CG-30.1, *Information Regarding Brands Sold in New York State* **before** the first sale of its products in NYS. The certification must include a complete listing of brand names intended for sale in NYS as of the date of the certification.

Who must sign the certification?

The proprietor must sign the certification on behalf of a proprietorship; a general partner must sign the certification on behalf of a partnership; and an officer must sign the certification on behalf of a corporation.

NYS business — The certification must be sworn to or affirmed before a NYS Notary Public or any other person authorized by NYS Real Property Law (RPL) section 298.

Business outside NYS but within the United States — The certification must be sworn to or affirmed before any officer authorized by, and in the manner described in, NYS RPL section 299 and must meet the requirements of section 299-a of this law regarding proof of the authority of the officer issuing the oath or witnessing the affirmation.

Business outside the United States — The certification must be sworn to or affirmed before any officer authorized by, and in the manner described in, NYS RPL section 301 and must meet the requirements of section 301-a of this law regarding proof of the authority of the officer issuing the oath or witnessing the affirmation.

Who must receive certifications?

Certifications and appropriate attachments must be delivered to the Commissioner of Taxation and Finance, the Attorney General of NYS, any distributor of the manufacturer's RYO tobacco, and every agent who affixes NYS cigarette tax stamps to the manufacturer's products. Form CG-30.2, *Information Regarding Escrow Deposit*, must be delivered to **only** the Commissioner of Taxation and Finance and the Attorney General.

The Commissioner of Taxation and Finance's copy of the certification should be sent to the following address:

**NYS TAX DEPARTMENT
TDAB/FACCTS — CIGARETTE TAX
W A HARRIMAN CAMPUS
ALBANY NY 12227**

The Attorney General's copy of the certification and a copy of the escrow agreement should be sent to the following address:

**NYS OFFICE OF THE ATTORNEY GENERAL
ATTN: DANA BIBERMAN
CHIEF OF TOBACCO COMPLIANCE BUREAU
120 BROADWAY
NEW YORK NY 10271**

List of brands — Form CG-30.1

Both participating and non-participating tobacco product manufacturers must attach a list of each of the cigarette and RYO tobacco brands of the manufacturer sold for consumption in NYS from January 1 of the prior calendar year until the date the annual certification is made. In addition, tobacco product manufacturers who first introduce their products for sale in NYS must list the cigarette and RYO tobacco brands they intend to sell before making the first sale of these brands in NYS. Agents and distributors must retain these certifications and the list of brand names for a period of five years. Form CG-30.1 is to be used to report complete brand names sold in NYS.

Additional information required from non-participating manufacturers — Form CG-30.2

A non-participating manufacturer must also submit Form CG-30.2 with the following information to **only** the Tax Commissioner and the Attorney General. A non-participating manufacturer must also annually provide the Attorney General with a copy of the escrow agreement defined in PHL section 1399-oo(6). A copy of the escrow agreement may be attached to the copy of Form CG-30.2 that is sent to the Attorney General.

This form may only be used to report escrow funds for calendar year 2011. To report escrow funds for any other year, contact the Tax Department for the correct form.

Line 1 — Cigarettes and RYO tobacco sold — Enter in the chart the number of individual cigarettes (sticks) and RYO tobacco by complete brand name manufactured by you and sold during calendar year 2011 in NYS. Add the number of cigarettes and RYO tobacco listed, and enter the total amount in the line 1 box provided.

Line 3 — Multiply the total number of cigarettes (sticks) and RYO tobacco sold (on line 1) by the rate on line 2, and enter the result.

Line 4 — Financial institution information — Enter the name and address of the financial institution holding your escrow account. Include your escrow account number. Also enter the total cumulative amount currently in your escrow account for the benefit of NYS.

Agents may not stamp certain cigarettes and distributors may not sell certain RYO tobacco

Any NYS stamping agent is prohibited from affixing NYS cigarette tax stamps to a tobacco product manufacturer's packages of cigarettes and distributors may not offer RYO tobacco for sale or cause it to be sold in this state in **any** of the following situations:

- The tobacco product manufacturer did not provide the agent or distributor with Form CG-30 and appropriate attachments annually. Certifications must be made annually, no earlier than **April 16** and no later than **April 30** of each year.
- The Commissioner of Taxation and Finance notified the agent or distributor that the tobacco product manufacturer is in violation of the provisions of PHL section 1399-pp or filed a false certification, and the Commissioner did not notify the agent that the violation ceased.

- The agent purchased cigarettes from a tobacco product manufacturer, and the cigarettes were not stamped by the agent within a time period certified by the tobacco product manufacturer.
- The tobacco product manufacturer did not provide the agent or distributor with Forms CG-30 and CG-30.1 for a manufacturer whose first sales in NYS were after April 30.
- The tobacco product manufacturer added new brands to its brand list after the date of its annual certification and did not file amended Forms CG-30 and CG-30.1-X.

The Commissioner may impose a civil fine not to exceed \$5,000 for each violation of these provisions by an agent, distributor, or by a tobacco product manufacturer. The Tax Department may seek to suspend or cancel any license, registration, or appointment that has been issued to an agent or distributor for a violation of sections 480-b and 480-c related to manufacturers' certifications for cigarettes or RYO tobacco. These penalties are in addition to any other penalty that may be imposed by law.

Police officers and certain peace officers are authorized to seize cigarettes and RYO tobacco that have been stamped or sold in violation of these provisions. The seized cigarettes and RYO tobacco are subject to forfeiture.

Privacy notification — The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Visit our Web site at www.tax.ny.gov

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

Miscellaneous Tax Information Center: (518) 457-5735

To order forms and publications: (518) 457-5431

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.