



Instructions for Form CG-30

Certification of Tobacco Master Settlement Agreement Status

General instructions

Every *tobacco product manufacturer* whose cigarettes are sold for consumption in New York State (NYS) must issue a certification annually on Form CG-30, *Certification of Tobacco Master Settlement Agreement Status*, to:

- the Commissioner of Taxation and Finance;
- the Attorney General of NYS; **and**
- every agent who affixes NYS cigarette tax stamps to the manufacturer's products.

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**
- *roll-your-own* (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 *roll-your-own* tobacco shall constitute one individual *cigarette*.

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 to be sold for consumption in NYS after filing its annual certification, the manufacturer must file an amended Form CG-30 and Form CG-30.1-X, *Additional Information Regarding Cigarette Brands Sold in New York*. These forms must be filed **before** the first sale of the additional brand or brands 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 manufacturer intends to introduce products into NYS, the manufacturer must file a certification **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. See *Additional instructions regarding acknowledgments and proofs*, beginning on page 3.

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.

For your convenience, NYS RPL sections 298, 299, 299-a, 301, and 301-a have been reproduced on pages 3 and 4, entitled *Additional instructions regarding acknowledgments and proofs*.

Who must receive certifications?

Certifications and appropriate attachments must be delivered to the Commissioner of Taxation and Finance, the Attorney General of NYS, and to every agent who affixes NYS cigarette tax stamps to the manufacturer's products. Form CG-30.2, *Information Regarding Escrow Deposit*, must be delivered **only** to 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
TTTB/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 UNIT
120 BROADWAY
NEW YORK NY 10271**

List of brands — Form CG-30.1, Information Regarding Brands Sold in New York State

Both participating and non-participating tobacco product manufacturers must attach a list of each of the cigarette 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 brands they intend to sell before making the first sale of these brands in NYS. Agents 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 **only** to 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 2007. To report escrow funds for any other year, contact the Tax Department for the correct form.

Line 1 — Units sold — Enter in the chart the number of individual cigarettes (sticks) by complete brand name manufactured by you and sold during calendar year 2007 in NYS. Add the number of cigarettes listed, and enter the total amount in the line 1 box provided.

Line 3 — Multiply the total number of cigarettes (sticks) 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

Any NYS stamping agent is prohibited from affixing NYS cigarette tax stamps to a tobacco product manufacturer's packages of cigarettes in **any** of the following situations:

- The tobacco product manufacturer did not provide the agent 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 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 with Form CG-30 and Form 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 an amended Form CG-30 and Form 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 or by a tobacco product manufacturer and may also suspend or cancel the violator's cigarette tax license. 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 that have been stamped in violation of these provisions. The seized cigarettes 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 Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.
To order forms and publications: 1 800 462-8100
Business Tax Information Center: 1 800 972-1233
From areas outside the U.S. and outside Canada: (518) 485-6800



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at 1 800 634-2110. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



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, please call 1 800 972-1233.

Additional instructions regarding acknowledgments and proofs

The following sections of the NYS RPL have been reproduced to assist you in completing your Form CG-30.

Section 298 - Acknowledgments and proofs within the state

The acknowledgment or proof, within this state, of a conveyance of real property situate in this state may be made:

1. At any place within the state, before (a) a justice of the supreme court; (b) an official examiner of title; (c) an official referee; or (d) a notary public.
2. Within the district wherein such officer is authorized to perform official duties, before (a) a judge or clerk of any court of record; (b) a commissioner of deeds outside of the city of New York, or a commissioner of deeds of the city of New York within the five counties comprising the city of New York; (c) the mayor or recorder of a city; (d) a surrogate, special surrogate, or special county judge; or (e) the county clerk or other recording officer of a county.
3. Before a justice of the peace, town councilman, village police justice or a judge of any court of inferior local jurisdiction, anywhere within the county containing the town, village or city in which he is authorized to perform official duties.

Section 299 - Acknowledgments and proofs without the state, but within the United States or any territory, possession, or dependency thereof

The acknowledgment or proof of a conveyance of real property situate in this state, if made (a) without the state but within the United States, (b) within any territory, possession, or dependency of the United States, or (c) within any place over which the United States, at the time when such acknowledgment or proof is taken, has or exercises jurisdiction, sovereignty, control or a protectorate, may be made before any of the following officers acting within his territorial jurisdiction or within that of the court of which he is an officer:

1. A judge or other presiding officer of any court having a seal, or the clerk or other certifying officer thereof.
2. A mayor or other chief civil officer of any city or other political subdivision.
3. A notary public.
4. A commissioner of deeds appointed pursuant to the laws of this state to take acknowledgments or proofs without this state.
5. Any person authorized, by the laws of the state, District of Columbia, territory, possession, dependency, or other place where the acknowledgment or proof is made, to take the acknowledgment or proof of deeds to be recorded therein.

Section 299-a - Acknowledgment to conform to law of New York or of place where taken; certificate of conformity

1. An acknowledgment or proof made pursuant to the provisions of section two hundred ninety-nine of this chapter may be taken in the manner prescribed either by the laws of the state of New York or by the laws of the state, District of Columbia, territory, possession, dependency, or other place where the acknowledgment or proof is taken. The acknowledgment or proof, if taken in the manner prescribed by such state, District of Columbia, territory, possession, dependency, or other place, must be accompanied by a certificate to the effect that it conforms with such laws. Such certificate may be made by

- (a) An attorney-at-law admitted to practice in the state of New York, resident in the place where the acknowledgment or proof is taken, or by
 - (b) An attorney-at-law admitted to practice in the state, District of Columbia, territory, possession, dependency, or other place where the acknowledgment or proof is taken, or by
 - (c) Any other person deemed qualified by any court of the state of New York, if, in any action, proceeding, or other matter pending before such court, it be necessary to determine that such acknowledgment or proof conforms with the laws of such state, District of Columbia, territory, possession, dependency, or other place; or by the supreme court of the state of New York, on application for such determination. The justice, judge, surrogate, or other presiding judicial officer shall append to the instrument so acknowledged or proved his signed statement that he deemed such person qualified to make such certificate.
2. (a) The signature to such a certificate of conformity shall be presumptively genuine, and the qualification of the person whose name is so signed as a person authorized to make such certificate shall be presumptively established by the recital thereof in the certificate.
 - (b) The statement of a judicial officer appended to the instrument that he deemed the person making such certificate qualified shall establish the qualification of the person designated therein to make such certificate; and the recording, filing, registering or use as evidence of the instrument shall not depend on the power of the court to make the statement and proof shall not be required of any action, proceeding, matter or application in which or in connection with which the statement is made.
 - (c) When an instrument so acknowledged or proved is accompanied by the certificate of conformity and the statement of a judicial officer, if any be required, the acknowledgment or proof of the instrument, for the purpose of recording, filing or registering in any recording or filing office in this state or for use as evidence, shall be equivalent to one taken or made in the form prescribed by law for use in this state; and if the acknowledgment or proof is properly authenticated, where authentication is required by law, and if the instrument be otherwise entitled to record, filing or registering, such instrument, together with the acknowledgment or proof, the certificate of conformity and any certificate of authentication or statement of a judicial officer, may be recorded, filed or registered in any recording or filing office in this state, and shall be so recorded, filed or registered upon payment or tender of lawful fees therefor. In fixing the fees of a recording, filing or registering officer, the certificate of conformity and the statement of a judicial officer appended, if any, shall be treated as certificates of authentication required by other provisions of this chapter.

Section 301 - Acknowledgments and proofs in foreign countries

The acknowledgment or proof of a conveyance of real property situate in this state may be made in foreign countries before any of the following officers acting within his territorial jurisdiction or within that of the court of which he is an officer:

1. An ambassador, envoy, minister, charge d'affaires, secretary of legation, consul-general, consul, vice-consul, consular agent, vice-consular agent, or any other diplomatic or consular agent or representative of the United States, appointed or accredited to, and residing within, the country where the acknowledgment or proof is taken.
2. A judge or other presiding officer of any court having a seal, or the clerk or other certifying officer thereof.
3. A mayor or other chief civil officer of any city or other political subdivision.
4. A notary public.
5. A commissioner of deeds appointed pursuant to the laws of this state to take acknowledgments or proofs without this state.
6. A person residing in, or going to, the country where the acknowledgment or proof is to be taken, and specially authorized for that purpose by a commission issued to him under the seal of the supreme court of the state of New York.
7. Any person authorized, by the laws of the country where the acknowledgment or proof is made, to take acknowledgments of conveyances of real estate or to administer oaths in proof of the execution thereof.

Section 301-a - Acknowledgment to conform to law of New York or of foreign country; certificate of conformity

1. An acknowledgment or proof made pursuant to the provisions of section three hundred one of this chapter may be taken in the manner prescribed either by the laws of the state of New York or by the laws of the country where the acknowledgment or proof is taken. The acknowledgment or proof, if taken in the manner prescribed by the laws of such foreign country, must be accompanied by a certificate to the effect that it conforms with such laws. Such certificate may be made by
 - (a) An attorney-at-law admitted to practice in the state of New York, resident in such foreign country, or by
 - (b) A consular officer of the United States, resident in such foreign country, under the seal of his office, or by
 - (c) A consular officer of such foreign country, resident in the state of New York, under the seal of his office, or by
 - (d) Any other person deemed qualified by any court of the state of New York, if, in any action, proceeding, or other matter pending before such court, it be necessary to determine that such acknowledgment or proof conforms with the laws of such foreign country; or by the supreme court of the state of New York, on application for such determination.

The justice, judge, surrogate, or other presiding judicial officer shall append to the instrument so acknowledged or proved his signed statement that he deemed such person qualified to make such certificate.

2. (a) The signature to such a certificate of conformity shall be presumptively genuine, and the qualification of the person whose name is so signed as a person authorized to make such certificate shall be presumptively established by the recital thereof in the certificate.
- (b) The statement of a judicial officer appended to the instrument that he deemed the person making such certificate qualified shall establish the qualification of the person designated therein to make such certificate; and the recording, filing, registering or use as evidence

of the instrument shall not depend on the power of the court to make the statement and proof shall not be required of any action, proceeding, matter or application in which or in connection with which the statement is made.

- (c) When an instrument so acknowledged or proved is accompanied by the certificate of conformity and the statement of a judicial officer, if any be required, the acknowledgment or proof of the instrument, for the purpose of recording, filing or registering in any recording or filing office in this state or for use as evidence, shall be equivalent to one taken or made in the form prescribed by law for use in this state; and if the acknowledgment or proof is properly authenticated, where authentication is required by law, and if the instrument be otherwise entitled to record, filing or registering, such instrument, together with the acknowledgment or proof, the certificate of conformity and any certificate of authentication or statement of a judicial officer, may be recorded, filed or registered in any recording or filing office in this state, and shall be so recorded, filed or registered upon payment or tender of lawful fees therefor. In fixing the fees of a recording, filing or registering officer, the certificate of conformity and the statement of a judicial officer appended, if any, shall be treated as certificates of authentication required by other provisions of this chapter.
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