



**CERTIFICATION FOR LISTING ON PUERTO RICO DIRECTORY**

Original

Supplemental

Calendar Year of Submission: \_\_\_\_\_

**PART I: BUSINESS INFORMATION**

**1. Applicant Tobacco Product Manufacturer**

Applicant Legal Name	Applicant Trade Name	Employer Identification Number	
Street Address		Phone Number (    )	Fax Number (    )
Mailing Address (if different from above)  Zip Code		E-Mail Address	Website Address
Manufacturing Plant(s) Name and Street Address (if different from above)		Name/Title of Person Completing Certification and E-mail Address	

**2. The undersigned certifies under oath that as of the date of this Certification, the above - named applicant is (initial one):**

\_\_\_\_\_ a Participating Manufacturer ("PM").

\_\_\_\_\_ a Nonparticipating Manufacturer ("NPM") in full compliance with Act No. 401 of September 9, 2000, as amended, and implementing regulations, including having made all required deposits into a Qualified Escrow Fund.

**3. Applicant is the manufacturer of the brands listed in this Certification which are intended to be sold in Puerto Rico, including Cigarettes intended to be sold in Puerto Rico through an importer.**

Yes     No

**4. Applicant is the first purchaser anywhere for resale in Puerto Rico of Cigarettes manufactured anywhere that the manufacturer does not intend to be sold in Puerto Rico.**

Yes     No

If the answer is "Yes", identify each Cigarette manufacturer, its plant street address, mailing address, contact person, telephone and facsimile phone numbers, e-mail address and the relationship to applicant. Identify the location of the transfer of ownership of Cigarettes and a copy of every agreement or contract between applicant and manufacturer. Attach additional sheet(s), as necessary, to provide a complete response.

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5. Applicant is a successor of an entity described in questions 3 or 4 above (i.e., manufacturer or first importer).

Yes       No

6. If applicant answered "No" to questions 3, 4, and 5 above, explain the basis for applicant's claim that it is a Tobacco Product Manufacturer and submit all documentation to support applicant's contention. Attach additional sheet(s), as necessary, to provide a complete response.

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**PART II: BRAND FAMILY IDENTIFICATION**

1. Brand Families and Unit Sales Report

(Original Form AS 2743 Brand Families and Unit Sales Report must be submitted with this certification.)

2. Trademark Holder(s)

Provide the name, address, email and phone number of the trademark holder(s) of each brand listed above.

Brand	Trademark Holder and Contact Person	Physical Address	Phone and E-mail

Attach additional sheet(s), as necessary, to provide a complete response.

**PART III: ADDITIONAL BUSINESS INFORMATION**

1. Applicant Information

Please indicate whether the following statements describe applicant by marking either Yes or No after the statement:

- a. Applicant sold Cigarettes in Puerto Rico in the preceding calendar year .....  Yes  No
- b. Applicant made escrow deposits in the preceding calendar year .....  Yes  No
- c. Applicant sold in the preceding calendar year one or more of the Brand Families listed in this Certification .....  Yes  No
- d. Applicant made escrow deposits in the preceding calendar year for one or more of the Brand Families listed in this Certification .....  Yes  No
- e. There has been a change in manufacturer of one or more of the Brand Families listed in this Certification within the past two calendar years .....  Yes  No
- f. Applicant advertises or sells Cigarettes via the internet or in catalogs and uses the mail or other delivery service to deliver Cigarettes to Puerto Rico consumers .....  Yes  No
- g. Applicant failed to timely comply with Act No. 401 of September 9, 2000, as amended, prior to the establishment of the Directory, or at any time thereafter .....  Yes  No

- h. Applicant or one of its Brand Families listed in this Certification was previously denied listing on the Directory or was removed from the Directory .....  Yes  No
- i. Applicant is enjoined or banned from selling any Cigarettes by court order, state or federal agency ruling or determination .....  Yes  No
- j. A Brand Family formerly sold by applicant or a Brand Family that applicant intends to sell is enjoined from sale by a state court, state agency or a federal court .....  Yes  No
- k. A state or federal court has entered a judgment finding that applicant engaged in an unfair business practice or unfair competition relating to the sale of tobacco products .....  Yes  No

**PART IV: NPM APPLICANT CERTIFICATION**

**1. Agent for Service of Process**

- a. Is applicant domiciled in Puerto Rico? .....  Yes  No
- b. Is applicant a non-resident or foreign NPM that has registered to do business in Puerto Rico as a foreign corporation or business entity? ..  Yes  No
- c. Name, address and phone number of agent for service of process  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- d. If applicant answered "No" to questions "a" and "b" above, applicant must appoint a resident agent for service of process by submitting a completed

**NOTICE OF APPOINTMENT OF REGISTERED AGENT AND REGISTERED AGENT'S STATEMENT.**

**2. Qualified Escrow Fund-Financial Institution**

Applicant certifies that of the date of this Certification, applicant:

- a. Has established and continues to maintain a Qualified Escrow Fund .....  Yes  No
- b. Has executed a Qualified Escrow Agreement that has been reviewed and approved by Puerto Rico Secretary of the Treasury and (that governs that Qualified Escrow Fund for the Government of Puerto Rico) .....  Yes  No

**3. Financial Institution Information**

Name	Authorized Escrow Agent	Escrow Account Number
Address	Phone Number (    )	Fax Number (    )
	Total Funds Held in Separate Account for Puerto Rico: \$ _____	
Zip Code		

**4. Qualified Escrow Fund Deposit/Withdrawal History for Puerto Rico**

DATE	DEPOSIT	WITHDRAWAL	BALANCE

Attach additional sheet(s), as necessary, to provide a complete response.

**NOTE: This Certification will not be processed or considered until all the required documents are submitted.**

**PART V: RETURNS AND DESTRUCTIONS**

Applicant made returns or destructions for one or more of the Brand Families during the preceding year .....  Yes  No

If yes, please provide Brand Family name, quantity of units and date of destruction.

Brand Family	Units	Date of Destruction

Attach support of the returns or destructions certification provided by the Puerto Rico Treasury Department.

**DECLARATION, ACKNOWLEDGMENT AND SIGNATURE**

Under penalty of criminal prosecution under the laws of Puerto Rico, I declare and acknowledge that:

1. I have read the instructions for this Certification for Listing on Puerto Rico Directory.
2. I understand that the Attorney General and the Secretary of the Treasury Department may require additional information and/or documentation to determine if applicant qualifies for listing on the Puerto Rico Directory.
3. Applicant will immediately notify the the Internal Revenue Area (P.O. Box 9024140, San Juan, PR, 00902-4140) if any information on this Certification changes, before the Secretary of the Treasury Department approves the Certification.
4. This Certification must be signed by a qualified company officer or other such individual authorized to bind the applicant company. My position with the company and my actual authority to certify on behalf of applicant meets the foregoing requirements.
5. I have examined this Certification, including attachments and supporting documents and, to the best of my knowledge and belief, this Certification, including attachments and supporting documents, is true, correct, and complete.

Name of Authorized Officer: \_\_\_\_\_

Title: \_\_\_\_\_

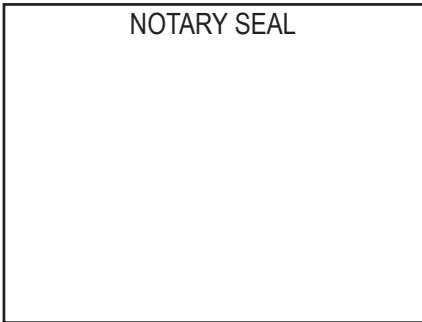
E-mail address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Authorized Officer: \_\_\_\_\_

Affidavit No. \_\_\_\_\_

Sworn and subscribed before me by \_\_\_\_\_, of legal age, \_\_\_\_\_ [civil status],  
 \_\_\_\_\_ [occupation], and resident of \_\_\_\_\_, \_\_\_\_\_, personally known to  
 me or identified by means of \_\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_, this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.



This Certification must be filed with the Department of the Treasury: DEPARTMENT OF THE TREASURY  
 INTERNAL REVENUE AREA  
 ATT. TOBACCO LITIGATION AND ENFORCEMENT  
 PO BOX 9024140  
 SAN JUAN, PR 00902-4140

**CERTIFICATION FOR LISTING ON PUERTO RICO DIRECTORY (FORM AS 2746)**  
**GENERAL INSTRUCTIONS**

**Who is required to file this Certification (Form AS 2746)?**

Tobacco Product Manufacturers.

Tobacco Product Manufacturer means an entity that:

- (1) manufactures cigarettes anywhere that such manufacturer intends to be sold in Puerto Rico, including cigarettes intended to be sold in Puerto Rico through an importer, distributor, retailer or similar intermediary, or
- (2) is the first purchaser anywhere for resale in Puerto Rico of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in Puerto Rico; or
- (3) becomes a successor of an entity described in subsection (1) or (2) above.

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

**When is this Certification due?**

Every Tobacco Product Manufacturer currently selling in Puerto Rico must file a Certification (Form AS 2746) no later than April 30, 2006. After April 30, 2006, Tobacco Product Manufacturers which intend to sell Cigarettes in Puerto Rico must file a Certification and qualify for listing on the Directory prior to any sales in Puerto Rico. 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 modified information, then sign and date the supplemental Certification form. In circumstances in which information provided on the Certification becomes inaccurate, a supplemental Certification (Form AS 2746) must be filed within thirty (30) days after the information becomes inaccurate. A Tobacco Product Manufacturer shall file a supplemental Brand Family and Unit Sales Report (Form AS 2743) no later than thirty (30) days prior to any change in a manufacturer for any Brand Family or any addition to or modification of its Brand Families.

**Where must this Certification be filed?**

This Certification must be filed with the Department of the Treasury of Puerto Rico:

Mailing Address: **Department of the Treasury**  
**Internal Revenue Area**  
**Attn.: Tobacco Litigation and Enforcement**  
**PO Box 9024140**  
**San Juan, PR 00902-4140**

E-mail: [tobaccotax@hacienda.pr.gov](mailto:tobaccotax@hacienda.pr.gov)

**Definitions:**

- (a) "Brand Family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers, including, but not limited to, "menthol", and includes any brand name, alone or in conjunction 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.
- (b) "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains: (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (ii) 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 (iii) 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 clause (i) of this definition. The term "cigarette" includes "roll-your-own" 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 "roll-your-own" tobacco constitutes one individual "cigarette". See Act No. 401 of September 9, 2000, as amended.
- (c) "Directory" means the listing of all Tobacco Product Manufacturers that have provided current and accurate certifications conforming to the requirements of Act No. 305 of September 15, 2004 and all Brand Families that are listed in such certifications.
- (d) "Escrow Agent" means a federally or local chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars (\$1,000,000,000) with whom the Non-Participating Manufacturer subscribes an escrow arrangement that requires that such financial institution holds the escrowed funds principal for the benefit or releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds principal except as consistent with certain circumstances described in Act No. 401 of September 9, 2000, as amended.

- (e) "Master Settlement Agreement" means the agreement subscribed between certain cigarette manufacturers and the Government of Puerto Rico on November 23, 1998.
- (f) "Nonparticipating Manufacturer", or "NPM", means any Tobacco Product Manufacturer that is not a Participating Manufacturer.
- (g) "Participating Manufacturer" has the same meaning as in subsection II (j) of the MSA.
- (h) "Person" means an individual, partnership, committee, association, corporation or any other organization or group of persons.

**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.**

### SPECIFIC INSTRUCTIONS

#### **PART I. BUSINESS INFORMATION**

**Questions 3-6:** Act No. 401 of September 9, 2000, as amended, sets forth three circumstances under which an entity is a Tobacco Product Manufacturer. Those circumstances are individually set forth in questions 3, 4 and 5. If 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**

**Original Form AS 2743, Brand Families and Unit Sales Report must be submitted with this certification.**

**Brand Families and Unit Sales Report AS 2743:** Identify by Brand Family all of the Cigarettes that the Tobacco Product Manufacturer intends to sell in Puerto Rico, 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) days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental Schedule (Form AS 2743) to the Department of the Treasury of Puerto Rico.

A Nonparticipating Manufacturer (NPM) shall: (i) List all of its Brand Families and the number of Units Sold of each Brand Family that were sold in Puerto Rico during the preceding calendar year; (ii) Identify by an asterisk any Brand Family sold in Puerto Rico during the preceding calendar year that is no longer being sold in Puerto Rico as of the date of the Certification; and (iii) Provide the complete name and address of every Tobacco Product Manufacturer that manufactured a Brand Family described in (i) above in the preceding calendar year. The NPM shall update such list at least thirty (30) days prior to any addition to or modification of its Brand Families by executing and delivering a supplemental Schedule (Form AS 2743) to the Department of the Treasury of Puerto Rico. By listing a Brand Family, the NPM affirms that the Brand Family is deemed to be its Cigarettes for the purpose of calculating its reserve fund deposits pursuant to Act. No. 401 of September 9, 2000, as amended.

#### **PART III. ADDITIONAL BUSINESS INFORMATION**

Information must be completed by Participating Manufacturers and Nonparticipating Manufacturers.

#### **PART IV. NPM APPLICANT CERTIFICATION**

**Agent for Service of Process:** Certify whether the NPM is (i) domiciled in Puerto Rico; (ii) a non-resident or foreign NPM that has registered to do business in Puerto Rico as a foreign corporation or business entity; or (iii) an NPM that has appointed a resident agent for service of process.

#### **PART V. RETURNS AND DESTRUCTIONS**

**Returns and Destructions:** Certify (i) Brand Family Name; (ii) Units Returned or Destructed; (iii) and Date of Destruction for the preceding calendar year.

**Mail the original Certification (Form AS 2746) and a complete copy of all required forms and documents to:**

Mailing Address: Department of the Treasury  
Internal Revenue Area  
Attn.: Tobacco Litigation & Enforcement  
PO Box 9024140  
San Juan, PR 00902-4140

E-mail: tobaccotax@hacienda.pr.gov