

Frequently Asked Questions regarding Oklahoma’s Directory of Tobacco Product Manufacturers and Brands (Sections 360.1, *et seq.*, of Title 68 of the Oklahoma Statutes)

- **What is the Oklahoma Directory?**

The Oklahoma Directory is mandated by Section 360.4 of Title 68 of the Oklahoma Statutes, which requires the Attorney General to develop and publish on the Attorney General’s website a Directory of cigarettes approved for stamping and sale. The Directory lists all Tobacco Product Manufacturers that the Attorney General has determined have satisfied the criteria set forth in Section 360.4 of Title 68 of the Oklahoma Statutes, and the Brand Families listed in the certifications provided by such manufacturers.

- **What is the status of Cigarettes that are not included in the Directory?**

Pursuant to Section 360.4(c) of Title 68 of the Oklahoma Statutes:

C. It shall be unlawful for any person to:

1. Affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory; and
2. Sell, offer, or possess for sale, in this state, or import for personal consumption in this state, cigarettes of a tobacco product manufacturer or brand family not included in the directory.

- **What is a Tobacco Product Manufacturer?**

“Tobacco Product Manufacturer” means an entity that directly, and not exclusively through any affiliate:

- a. manufacturers cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer (except where such importer is an original participating manufacturer, as that term is defined in the Master Settlement Agreement, that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the Master Settlement Agreement, and that pays the taxes specified in subsection II(z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States),

- b. is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States, or
- c. becomes a successor of an entity described in subparagraph a or b.

- **What is the difference between a Participating Manufacturer and a Nonparticipating Manufacturer?**

A “Participating Manufacturer” is a Tobacco Product Manufacturer that is or becomes a signatory to the Master Settlement Agreement, provided that the manufacturer meets the requirements of Section II(j) of the MSA and all amendments thereto.

A “Nonparticipating Manufacturer” means any Tobacco Product Manufacturer that is not a Participating Manufacturer.

- **What is a Brand Family?**

“Brand Family” means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, “menthol,” “lights”, “kings”, and “100s”, 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.

- **How does a Tobacco Product Manufacturer get its name and Brand Family included in the Directory?**

A Tobacco Product Manufacturer may apply for inclusion in the Directory by completing the certification process described in Section 360.4 of Title 68 of the Oklahoma Statutes, including executing and delivering to the Attorney General the Certification for Listing form (OAG-TOB1) and all other applicable forms and required documentation.

- **Does the Certification For Listing form (OAG-TOB1) required by Section 360.4 of Title 68 of the Oklahoma Statutes replace the Certificate of Compliance that an NPM is required to file to comply with Sections 600.23 through 600.23 of Title 37 of the Oklahoma Statutes?**

No. The Certification form (OAG-TOB1) for compliance with Section 360.1 et seq. of Title 68 of the Oklahoma Statutes is in addition to the Non-participating Tobacco Manufacturer’s Certificate of Compliance with Escrow Payment Requirement on Sales in Oklahoma form (OAG-TOB3-2004) required to comply with Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes. Both forms must be timely filed.

- **May a Brand Family be stamped or sold if it is manufactured by a Tobacco Product Manufacturer other than the manufacturer listed in the Directory?**

No. In order for a Brand Family of Cigarettes to be stamped or sold in Oklahoma, it must be manufactured by the Tobacco Product Manufacturer listed in the Directory. (See Section 360.4(c) of Title 68.).

- **May a Brand Family be stamped or sold if the Brand Family is not listed in the Directory but is manufactured by a Tobacco Product Manufacturer that is listed in the Directory?**

No. In order for a Brand Family to be stamped or sold in Oklahoma, the Brand Family itself must be listed in the Directory. (See Section 360.4(c) of Title 68.).