

**ALABAMA DEPARTMENT OF REVENUE  
BUSINESS & LICENSE TAX DIVISION  
TOBACCO TAX RULE**

**810-7-1-.11. Procedures Pertaining to the Escrow Provisions and Tobacco Master Settlement Agreement Complementary Legislation Concerning Tobacco Manufacturers.**

(1) The tobacco Escrow Provisions and Tobacco Master Settlement Agreement Complementary Legislation are codified in Title 6, Chapters 12 and 12A. These provisions obligate tobacco manufacturers and distributors to adhere to certain requirements.

(2) In addition to information currently reported, each qualified wholesaler; distributor; retailer; manufacturer; delivery seller (as defined by the PACT Act which amended the Jenkins Act) who sales any cigarettes or smokeless tobacco to a consumer in Alabama if the consumer submits the order via telephone or other method of voice transmission, mail orders, Internet, or other online service where the seller is not in the buyer's physical presence; or any other person; firm; corporation; club or association selling, receiving, distributing, storing or using tobacco products in the State of Alabama shall report the excise tax on cigarettes and roll-your-own tobacco.

(3) The wholesaler, distributor, retailer, manufacturer, delivery seller, etc. shall report the information to the Alabama Department of Revenue, on forms prescribed by the Department, no later than the twentieth day of each calendar month for the preceding calendar month's activity. The following information must be reported:

(a) The month of activity.

(b) The name of the manufacturer from whom the Alabama taxed cigarettes or roll-your-own tobacco originated.

(c) The brand code.

(d) The brand name.

(e) The number of Alabama taxed cigarettes and roll-your-own tobacco units sold. (Units Sold is the number of individual cigarettes sold in the state by the applicable tobacco product manufacturer (whether directly or through a distributor, retailer, or similar intermediary or intermediaries) during the year in question, as measured by excise taxes collected by the state on packs (or roll-your-own tobacco containers) bearing the excise tax stamp of the state.)

1. For the purpose of roll-your-own tobacco, this product is taxed under the heading of "smoking tobacco" in Alabama tobacco tax statutes Title 40, Chapter 25, Section 2(a)(9), and the excise tax is paid by monthly report. The term "cigarette" includes roll-your-own tobacco. Roll-your-own is 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. Roll-your-own tobacco in the amount of 0.09 ounces shall constitute one individual cigarette.

(f) The conversion of roll-your-own tobacco ounces to cigarettes. For the purpose of computing roll-your-own tobacco to units sold, the tobacco must be converted to individual cigarettes by dividing total ounces of roll-your-own tobacco by 0.09

(4) A manufacturing company whose cigarettes and/or roll-your-own tobacco is distributed into Alabama and that manufacturing company elects not to participate in the Master Settlement Agreement is required to do the following:

(a) Establish an escrow fund in a federally or state chartered financial institution by April 15, 2000. The manufacturer may choose the institution; however, the following conditions must be met:

1. The institution must not be affiliated with any tobacco product manufacturer.

2. The institution must have assets of at least one billion dollars.

3. The escrow arrangement must require that the financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal inconsistent with Act 99-395, Section 3 (2).

4. The tobacco products manufacturer may receive the interest or other appreciation on the escrow fund.

(b) Certify to the Commissioner of the Department of Revenue, no later than April 30, 2000 or April 30 following the year of activity, that an escrow fund was established and provide the Commissioner with a copy of the escrow agreement signed by the tobacco product manufacturer and financial institution.

(c) Place into a qualified escrow fund by April 15 of the year or by the last day of the month following the end of the quarter if required to make quarterly deposits, following the below year, the following amounts:

1. 1999: \$.0094241 per unit sold June 9, 1999 through December 31, 1999;
2. 2000: \$.0104712 per unit sold;
3. 2001 and 2002: \$.0136125 per unit sold;
4. 2003 through 2006: \$.0167539 per unit sold;
5. 2007 and each year thereafter: \$.0188482 per unit sold.

(d) Certify to the Commissioner of the Department of Revenue by April 30 of each year or no later than ten (10) days after each quarterly deposit date if required to make quarterly certifications, stating the number of units sold in Alabama and the amount deposited into the escrow fund. Verification of the deposit must be evidenced by a statement from the financial institution.

(Statutory Authority §§ 40-2A-7(a)(5), 6-12-2(10), 6-12A5(d), and 6-12A-7(d), Code of Alabama 1975,) (Emergency rule effective September 1, 1999, expires December 29, 1999. Permanent rule filed December 1, 1999, effective January 5, 2000, amended June 30, 2000, effective August 4, 2000, amended June 15, 2011)