



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN

NOTICE

TO ALL NON-PARTICIPATING TOBACCO PRODUCT MANUFACTURERS AND THEIR ESCROW AGENTS

December 18, 2015

The qualified escrow fund established by a Non-Participating tobacco product Manufacturer (“NPM”) is governed under Idaho state law. The Idaho Tobacco Master Settlement Agreement Act (“MSA Act”) and Idaho Tobacco Master Settlement Agreement Complementary Act (“Complementary Act”) (Idaho Code § 39-7801 et seq. and § 39-8401 et seq.) (collectively the “Acts”) require the principal funds deposited in a qualified escrow fund for Cigarette and RYO units sold within the State to be maintained for the benefit of releasing parties and prohibits the NPM from “using, assessing, or directing the use of the funds’ principal” except as consistent with the Acts. The Acts also require that a NPM maintain an executed escrow agreement that has been reviewed and approved by the Attorney General. Idaho Code § 39-8403(1)(c)(ii). The escrow banks, as escrow agents, are required to provide “proof...of the amount of money in such fund...the amount and date of each deposit to the fund, and the amount and date of each withdrawal from the fund.” Idaho Code § 39-8405(3).

The Model Escrow Agreement currently in use by NPMs and their escrow agents must be replaced with the Revised Model Escrow Agreement. The Model Escrow Agreement was revised, in part, to clarify the valuation standards for invested escrow principal and the limitations on investment vehicles for escrow principal to maintain the qualified escrow fund in full compliance with the Acts. Other revisions include changes regarding information required for account statements, and execution of a new Escrow Agreement when an NPM transfers its accounts to a new bank. The Revised Model Escrow Agreement will be required to replace the current Escrow Agreement as part of the 2016 Certification Application. Inclusion or retention on the Idaho Directory of Compliant Tobacco Product Manufacturers and Brand Families requires that NPMs use a “qualified escrow fund agreement approved by the Attorney General.” Idaho Code § 39-8403(1)(c)(ii).

The revised Idaho Model Escrow Agreement is enclosed for your convenience. An interactive PDF version of the revised Idaho Model Escrow Agreement can be found on the Idaho Attorney General’s website at www.ag.idaho.gov.