

Administrative Release

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Web Site: <http://compnet.comp.state.md.us/attd/>

No. TT-5

April 26, 2002

TO: All Cigarette Wholesalers

SUBJECT: Cigarette Sales Below Cost Act
Minimum Price Markups/Internet Price Calculator

Regulation 03.02.03.07 concerning a cigarette wholesaler's cost of doing business was amended April 1, 2002 to be effective with the license year beginning May 1, 2002. This regulation can be found at <http://compnet.comp.state.md.us/attd>.

The major changes to the prior regulation are: (1) the procedures and documentation were modified for a wholesaler who wishes to submit an application for a "cost of doing business" of less than 5%, and (2) the lowest approved percentage of any wholesaler now becomes the benchmark for the entire state. Previously each wholesaler who satisfactorily proved a lesser cost was individually approved to sell at that cost and another wholesaler was permitted to meet the legitimate price of a competitor providing they established proof that a sale or bona fide offer to sell was made by the competitor to a specific retail account.

We have reviewed and analyzed all applications and supporting documentation from wholesalers who made a submission to sell at a cost of doing business less than 5% effective with the new license year. The lowest approved minimum percentage markup was

.56%. Therefore, this percentage becomes effective statewide as the minimum markup beginning May 1, 2002.

Effective immediately, we will no longer be publishing minimum price lists as we have done in the past. Instead we are pleased to announce that a wholesaler to retailer automated minimum price calculator will be operational on the website of the Alcohol and Tobacco Tax Division on or about May 1. The site address is: <http://compnet.comp.state.md.us/attd>. You can find information pertaining to the Cigarette Sales Below Cost Act and the automated calculator under the "Tobacco" section on the left-hand side of the screen.

After you have entered the manufacturer's price to you, anticipatory trade discounts, and other legitimate discounts permitted by law, press "calculate" to determine the minimum selling price to retailers. Information pertaining to the current minimum markup and tax rate are automatically hard-coded by this office on the price calculator and will be updated by us when these variables change.

(over)

It is strongly recommended that wholesalers use this calculator to determine their minimum selling price. Print out the page and keep it with your records. If there is an allegation that you sold below cost in violation of the law, this page could be considered prima facie evidence that you were in compliance. However, to be accurate and effective you must: (1) make sure all variables you input are accurate and can be backed up by supporting documentation, and (2) recalculate the minimum price anytime one or more variables (including the minimum markup or tax rate) changes.

From time to time we will update our website with new variables or other pertinent information. You have a responsibility to check this site on a regular basis to assure you are using the most recent and accurate information. Bulletins pertaining to minimum markups will no longer be routinely issued. We do send out e-mails notifying licensees when important information on the site has been updated. If you have not subscribed to this service, you may do so by sending us an e-mail to attd-promo@comp.state.md.us. Please provide us with your name, company name, e-mail address, and type of license you hold.

We hope you will find the new requirements — from an administrative, operational and practical point of view — to be less complicated, easy to use, and of assistance to you in complying with the law. If you have questions pertaining to the new provisions of the regulations, please contact Christie Mattox at 410-260-7312. Questions pertaining to the website and our calculator can be directed to Peggy Higgins at 410-260-7319.

Charles W. Ehart, DPA
Director
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