

MINIMUM SELLING PRICE OF CIGARETTES

Issue:

What is the effect on the minimum selling price of cigarettes by the changes in the statutory definitions of basic cost of cigarettes and cost to the wholesaler as set forth in the Unfair Cigarette Sales Act, Neb. Rev. Stat. §§ 59-1502(8) and 59-1505(2)?

Conclusions:

Pursuant to Laws 2008, LB 898, effective July 18, 2008, all wholesalers and retailers who sell cigarettes in this state are required to use the new minimum selling prices on all cigarettes, including cigarettes in their inventory.

All wholesalers and retailers must change the wholesale and retail minimum cigarette selling prices on the effective date of the change regardless of when the cigarettes were purchased.

Analysis:

The Nebraska Department of Revenue, pursuant to the Unfair Cigarette Sales Act, Neb. Rev. Stat. §§ 59-1501 to 59-1518, is required to calculate the wholesale and retail minimum selling prices of cigarettes sold in this state. The minimum selling prices of cigarettes must be changed whenever:

- A manufacturer changes its cost of cigarettes;
- There is a change in the cigarette tax rate; or
- Statutory changes are enacted that affect the basic cost of cigarettes or the wholesaler's or retailer's cost of doing business.

No manufacturer's discount or wholesaler's cost of transportation will be used in the calculation of the wholesale and retail minimum selling prices for cigarettes sold in this state. Since the wholesaler's cost of transportation will no longer be included in the calculation of the minimum selling prices, there will no longer be separate minimum selling prices for delivered and undelivered cigarettes.

The following worksheet has been updated to reflect the changes required by Laws 2008, LB 898:

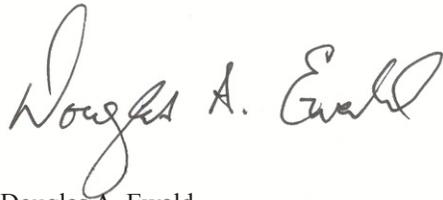
 Cigarette Price Worksheet COMPUTATION OF MINIMUM SELLING PRICES			
1	Manufacturer's billed invoice cost per thousand cigarettes.....	1	
2	Add: Nebraska state tax per thousand cigarettes.....	2	
3	Basic cost to Nebraska wholesaler (line 1 plus line 2).....	3	
4	Add: wholesaler's overhead, 4.75% of basic cost (line 3 multiplied by .0475)	4	
5	Wholesaler's delivered cost per thousand cigarettes (line 3 plus line 4).....	5	
6	Wholesaler's delivered cost per carton and minimum per carton billing to the retailer (line 5 divided by 5).....	6	
7	Retailer's minimum selling price per carton (108% of line 6).....	7	
8	Retailer's minimum selling price per package (line 7 divided by number of packs in carton).....	8	

Each line in the worksheet is to be computed to tenths of a cent. The result must always be rounded up to the next higher cent.

The provisions of the Nebraska Cigarette Tax Regulations 57-009, 57-010, 57-017, and 57-020 are superseded to the extent they do not reflect the statutory changes required by Laws 2008, LB 898.

The minimum selling prices of cigarettes can be found on our Web site at: www.revenue.ne.gov/cig/cig_info.htm.

APPROVED:

A handwritten signature in black ink that reads "Douglas A. Ewald". The signature is written in a cursive style with a large initial 'D'.

Douglas A. Ewald
Tax Commissioner

August 12, 2008