

business, in the absence of satisfactory proof of a lesser cost, is presumed to be 8 percent of the basic cost of cigarettes to him.

(2) As to each carton of 200 cigarettes, a fractional part of a cent equal to one-tenth of a cent or more in the cost to the retailer shall be rounded off to the next higher cent.

(e) (1) "Cost to the wholesaler", subject to the special cost provisions of § 11-503 of this subtitle, means the basic cost of cigarettes to a wholesaler, plus a markup to cover his cost of doing business, which cost of doing business:

(i) Includes the cartage cost to a retailer; and

(ii) In the absence of satisfactory proof of a lesser cost, is presumed to be 5 percent of the basic cost of cigarettes to him.

(2) As to each carton of 200 cigarettes, a fractional part of a cent equal to one-tenth of a cent or more in the cost to the wholesaler shall be rounded off to the next higher cent.

(f) "Person" includes an individual, corporation, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(g) "Replacement cost" means the cost per unit for which the cigarettes could have been bought by the wholesaler or retailer at any time within 30 days before the date of sale by him if bought in the same quantity as his last purchase of the cigarettes.

(h) (1) "Retailer" includes any person engaged in the business of making retail sales of cigarettes within the State at a store, stand, booth, or concession, through vending machines, or otherwise.

(2) If the person is engaged in the business of making both retail sales of cigarettes and wholesale sales of cigarettes, the word only applies to the retail sales of cigarettes portion of the business.

(i) "Retail sale of cigarettes" includes any sale whereby cigarettes are sold for a valuable consideration, including an exchange or barter and a sale through a vending machine, made in the ordinary course of trade or the usual conduct of the seller's business to a purchaser for consumption or use other than resale.

(j) "Sell" includes advertise, offer to sell, or offer for sale.

(k) "Vending machine operator" means a person who:

(1) Makes retail sales of cigarettes or has cigarettes in his possession with the intent to sell them exclusively at retail through the medium of a vending machine or any other mechanical device used for dispensing cigarettes;

(2) Owns, operates, and services vending machines or other mechanical devices used to dispense cigarettes on 40 or more premises; and