The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Seven.

AN ACT MAKING CERTAIN CHANGES IN THE CIGARETTE EXCISE TAX LAW.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1. Section 13 of chapter 64C of the General Laws, inserted by section 1 of chapter 547 of the acts of 1945, is hereby amended by striking out paragraphs (a) to (d), inclusive, and inserting in place thereof the following four paragraphs:

   (a) The term "cost to the retailer" shall mean the invoice cost of the cigarettes to the retailer, or the replacement cost of the cigarettes to the retailer within thirty days prior to the date of sale, in the quantity last purchased, whichever is lower, less all trade discounts except customary discounts for cash; to which shall be added the cost of doing business by said retailer as evidenced by the standards and the methods of accounting regularly employed by him in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising.

   (b) In the absence of proof of a lesser or higher cost of doing business by the retailer making the sale, the cost of doing business by the retailer shall be presumed to be twelve and four tenths per centum of the invoice cost of the cigarettes
to the retailer, or of the replacement cost of the cigarettes to
the retailer within thirty days prior to the date of sale, in the
quantity last purchased, whichever is lower, less all trade
discounts except customary discounts for cash.

(c) The term "cost to the wholesaler" shall mean the in-
voice cost of the cigarettes to the wholesaler, or the replace-
ment cost of the cigarettes to the wholesaler within thirty
days prior to the date of sale, in the quantity last purchased,
whichever is lower, less all trade discounts except customary
discounts for cash; to which shall be added a wholesaler’s
mark-up to cover in part the cost of doing business, which
wholesaler’s mark-up, in the absence of proof of a lesser or
higher cost of doing business by the said wholesaler as evi-
denced by the standards and methods of accounting regularly
employed by him in his allocation of overhead cost and ex-
penses, paid or incurred, including without limitation, labor,
salaries of executives and officers, rent, depreciation, selling
costs, maintenance of equipment, delivery, delivery costs, all
types of licenses, taxes, insurance and advertising, shall be
two per centum of said invoice cost of the cigarettes to the
wholesaler plus cartage to the retail outlet if performed or
paid for by the wholesaler, which cartage cost shall be deemed
to be three fourths of one per cent of the cost of the cigarettes
to the wholesaler, unless said wholesaler claims and proves a
lower cartage cost, or of the replacement cost of the cigarettes
to the wholesaler within thirty days prior to the date of sale,
in the quantity last purchased, whichever is lower, less all
trade discounts except customary discounts for cash.

(d) In the absence of proof of a lesser or higher cost of
doing business, the cost of doing business to the retailer, who
received in connection with the retailer’s purchase not only
the discounts ordinarily allowed upon purchases by a retailer
but also in whole or in part the discounts ordinarily allowed
upon purchases by a wholesaler, shall be presumed to be
twelve and four tenths per centum of both the invoice cost of
the cigarettes to such retailer or the replacement cost of the
cigarettes to such retailer within thirty days prior to the date
of sale, in the quantity last purchased, whichever is lower,
less all trade discounts except customary discounts for cash
and “wholesaler mark-up”.