

8854

2009-2010 Regular Sessions

I N A S S E M B L Y

June 11, 2009

Introduced by M. of A. PERALTA -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to amending the percentages used to determine the presumed cost of doing business for agents and wholesale dealers of cigarettes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subparagraph (B) of paragraph 1 and subparagraph (B) of
2 paragraph 2 of subdivision (b) of section 483 of the tax law, subpara-
3 graph (B) of paragraph 1 as amended by chapter 1 of the laws of 1999 and
4 subparagraph (B) of paragraph 2 as amended by chapter 4 of the laws of
5 1988, are amended to read as follows:
6 (B) In the absence of the filing with the commissioner of satisfactory
7 proof of a lesser cost of doing business of the agent making the sale,
8 the cost of doing business by the agent shall be presumed to be [seven-
9 eighths of one] TWO AND FIVE-EIGHTHS percent of the basic cost of ciga-
10 rettes for sales to wholesale dealers plus one cent per package of ten
11 cigarettes, two cents per package of twenty cigarettes and in the case
12 of a package containing more than twenty cigarettes, two cents and one-
13 half of a cent for each five cigarettes in excess of twenty cigarettes,
14 [one] FOUR and one-half percent of the basic cost of cigarettes for
15 sales to chain stores plus one cent per package of ten cigarettes, two
16 cents per package of twenty cigarettes and in the case of a package
17 containing more than twenty cigarettes, two cents and one-half of a cent
18 for each five cigarettes in excess of twenty cigarettes and [three and
19 seven-eighths] SIX AND ONE-HALF percent of the basic cost of cigarettes
20 with respect to sales to retail dealers plus one cent per package of ten
21 cigarettes, two cents per package of twenty cigarettes and in the case
22 of a package containing more than twenty cigarettes, two cents and one-
23 half of a cent for each five cigarettes in excess of twenty cigarettes
24 and the foregoing cents per pack shall be included in the "cost of doing

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

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1 business by the agent" referred to in paragraphs two and three of this
2 subdivision.

3 (B) In the absence of the filing with the tax commission of satisfac-
4 tory proof of a lesser cost of doing business of the wholesale dealer
5 making the sale, the cost of doing business by the wholesale dealer with
6 respect to sales to retail dealers shall be presumed to be three AND
7 SEVEN-EIGHTHS per centum of the basic cost of cigarettes, and with
8 respect to sales to chain stores, [five-eighths of] one AND
9 SEVEN-EIGHTHS percent of the basic cost of cigarettes.

10 S 2. Subparagraph (B) of paragraph 3 of subdivision (b) of section 483
11 of the tax law, as amended by chapter 744 of the laws of 1990, is
12 amended to read as follows:

13 (B) In the absence of the filing with the commissioner of taxation and
14 finance of satisfactory proof of a lesser cost of doing business by the
15 retail dealer making the sale, the cost of doing business by the retail
16 dealer shall be presumed to be [seven] ELEVEN per centum of the sum of
17 the basic cost of cigarettes plus the cost of doing business by the
18 agent with respect to cigarettes sold to retail dealers.

19 S 3. This act shall take effect on the fourteenth day after it shall
20 have become a law.