S T A T E O F N E W Y O R K

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2009-2010 Regular Sessions

I N S E N A T E

February 9, 2009

Introduced by Sens. KLEIN, KRUGER, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Subparagraph (B) of paragraph 1 and subparagraph (B) of paragraph 2 of subdivision (b) of section 483 of the tax law, subparagraph (B) of paragraph 1 as amended by chapter 1 of the laws of 1999 and subparagraph (B) of paragraph 2 as amended by chapter 4 of the laws of 1988, are amended to read as follows:

(B) In the absence of the filing with the commissioner of satisfactory proof of a lesser cost of doing business of the agent making the sale, the cost of doing business by the agent shall be presumed to be [seven-eighths of one] TWO AND FIVE-EIGHTHS percent of the basic cost of cigarettes for sales to wholesale dealers plus one cent per package of ten cigarettes, two cents per package of twenty cigarettes and in the case of a package containing more than twenty cigarettes, two cents and one-half of a cent for each five cigarettes in excess of twenty cigarettes, [one] FOUR and one-half percent of the basic cost of cigarettes for sales to chain stores plus one cent per package of ten cigarettes, two cents per package of twenty cigarettes and in the case of a package containing more than twenty cigarettes, two cents and one-half of a cent

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

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for each five cigarettes in excess of twenty cigarettes and [three and seven-eighths] SIX AND ONE-HALF percent of the basic cost of cigarettes with respect to sales to retail dealers plus one cent per package of ten cigarettes, two cents per package of twenty cigarettes and in the case of a package containing more than twenty cigarettes, two cents and one-half of a cent for each five cigarettes in excess of twenty cigarettes and the foregoing cents per pack shall be included in the "cost of doing business by the agent" referred to in paragraphs two and three of this subdivision.

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

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

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

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