

**701—233.2(421B) Minimum price.**

**233.2(1)** *Cost to retailers or cost to wholesalers.* The “cost to the retailer” and “cost to wholesaler” are defined in Iowa Code section 421B.2. The formulas for determining the cost to a wholesaler or retailer are not conclusive. The retailer, wholesaler, or the department may prove that the cost is either higher or lower.

**233.2(2)** *Proving higher or lower than statutory presumption.*

*a.* The statutory presumptive cost must be used in determining minimum price until approval of the request to utilize another figure is granted by the department. If the requester continues to sell cigarettes at less than the presumptive cost, the department may revoke the requester’s permit or seek an injunction pursuant to Iowa Code section 421B.10 to prevent such action.

*b.* Any wholesaler or retailer who desires to prove that the wholesaler’s or retailer’s cost is less than the statutory presumptive cost computed according to Iowa Code chapter 421B may submit a petition for approval of a lower cost along with actual cost data to the department.

*c.* Any requester making sales of cigarettes in or into Iowa for more than 12 months shall submit cost data for the 12-month period ending no more than 30 days prior to the submission of the petition. Any requester making sales of cigarettes in or into Iowa for less than 12 months shall submit cost data for the period beginning with the start of business and ending no more than 30 days prior to the submission of the petition.

*d.* The department will notify the wholesaler or retailer of the acceptance or rejection of the petition. If the requester disagrees with the department’s determination, the requester may file an appeal within 60 days of the department’s decision in accordance with provisions of the “appeals” rule contained in 701—Chapter 7.

**233.2(3)** *Costs of doing business.*

*a.* Costs of doing business include but are not limited to freight charges, labor, and equipment costs to affix stamps, ink, glue, permit fees, management fees, labor costs (including salaries of officers), rents, depreciation, selling costs, maintenance expenses, interest expenses, delivery costs, taxes, insurance, advertising expenses, and any other operational and administrative costs. The requester shall set forth the basis for allocated costs.

*b.* When the computed cost amounts to any fractional part of a cent, the cost must be rounded up to at least the next higher whole cent.

*c.* Sales made between wholesalers as provided for in Iowa Code section 421B.5, sales described in Iowa Code section 421B.6, and sales outside of the ordinary channels of trade as provided in Iowa Code section 421B.9 shall not be required to adhere to the minimum pricing requirements set forth in Iowa Code section 421B.3 and this rule.

**233.2(4)** *Discounts.* For purposes of determining the basic cost of cigarettes for wholesalers or retailers, trade or cash discounts may be deducted, if available, even though not taken. The discount taken or available must be clearly specified on the invoice or it will not be allowed as a reduction in the basic cost of cigarettes. Any financial incentive given to a wholesaler or retailer by a manufacturer at a later date will not reduce the basic cost of cigarettes.

**233.2(5)** *Example.* The following example will demonstrate the application of Iowa Code chapter 421B and this rule.

Per thousand cigarettes:

Manufacturer cost	\$149.9500
Minus 2% discount	– 2.9990
Plus ½ of the tax	<u>+ 34.0000</u>
	=
Basic cost of cigarettes	\$180.9510
Plus 4% of basic cost	<u>+ 7.2380</u>
	=
Retailer’s basic cost	\$188.1890

Plus ½ of the tax	+ 34.0000
Per 1,000 cigarettes: Wholesaler Minimum price to retailer	= \$222.1890
Per carton (10 packs of 20 cigarettes): Wholesaler Minimum Price to Retailer	\$44.44
Minus ½ state tax	- 6.80
Retailer's basic cost	\$37.6400
Plus 8% of basic cost	+ 3.0112
Plus ½ of state tax	+ 6.8000
	=
Minimum cost per carton to retailer	\$47.4600
	\$4.75/
Per pack	pack

This rule is intended to implement Iowa Code sections 421B.2, 421B.3, 421B.5, 421B.6 and 421B.9.  
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