



Special Notice

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TTY
711

Clarifying the Wholesale Cost of Tobacco Products

“Wholesale cost” means the cost of tobacco products to the distributor prior to any discounts or trade allowances.

The California State Board of Equalization (BOE) adopted [Regulation 4076](#), *Wholesale Cost of Tobacco Products*. The regulation provides the following definitions and clarification of the wholesale cost of tobacco products:

Arm’s-length transaction. A sale entered into in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

Discounts or trade allowances. Price reductions, or allowances of any kind, whether stated or unstated, and include, without limitation, any price reduction applied to a supplier’s price list. The discounts may be for prompt payment, payment in cash, bulk purchases, related-party transactions, or “preferred-customer” status.

Finished tobacco products; finished condition. Tobacco products that will not be subject to any additional processing before first distribution in the state.

If finished tobacco products are purchased by a distributor from a supplier in an arm’s length transaction, the “wholesale cost” of the tobacco product is the amount paid for the tobacco product, including any federal excise tax, but excluding any transportation charges for shipment originating within the United States. Discounts and trade allowances must be added back to the amount paid when determining “wholesale cost.”

If a manufacturer or an importer is also the distributor, the wholesale cost of tobacco includes all manufacturing costs, the cost of raw materials (including waste materials not incorporated into the finished tobacco product) prior to any discounts or trade allowances, the cost of labor, any direct (including freight-in) and indirect overhead costs, and any federal excise and/or U.S. Customs taxes paid. Wholesale cost includes all freight or transportation charges for shipment of materials and/or unfinished product from the supplier to the manufacturer concurrently licensed as a distributor, but excludes domestic freight or transportation charges for shipment of finished tobacco products.

If tobacco products are not purchased in an arm’s-length transaction or costs include express, implicit, or unstated discounts or trade allowances, the correct wholesale costs to be reported by the distributor may be determined using any of the alternative methods provided in subdivision (c) of Regulation 4076.

Please refer to [Regulation 4076](#) for the full text, examples of evidence of typical tobacco costs, and wholesale cost calculation formulas under different scenarios.

Sales Between Related Parties

Sales between related parties are not considered to be arm’s length transactions unless you can demonstrate that the price, terms, and conditions of the transaction were substantially equivalent to those that would have been negotiated between unrelated parties.

For More Information

If you have questions regarding the wholesale cost of tobacco products, visit BOE’s website at www.boe.ca.gov or call the Customer Service Center at 1-800-400-7115 (TTY: 711). From the main menu, select the option, *Special Taxes and Fees*. Assistance is available weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.