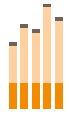




Tobacco Product Pricing Laws: A State-by-State Analysis, 2015

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University of Illinois at Chicago

September 2016



tobacconomics

Economic Research Informing Tobacco Control Policy

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Acknowledgments

Research reported in this publication was supported by the National Cancer Institute of the National Institutes of Health under the State and Community Tobacco Control Initiative, grant number U01CA154248. The content is solely the responsibility of the authors and does not necessarily represent the official views of the National Institutes of Health.

The authors also would like to thank the following people who contributed to the compilation of this report:

- Camille Gourdet, J.D. for her legal research assistance.
- Laurie Lennon and Shannon Ryan from Burness for graphic design, layout, and copy editing.

The photos included on the chartbook cover and in front of the appendices were obtained from (clockwise from left): www.countertobacco.org; [Mark Mathosian](#) via Flickr; [El-toro](#) via Flickr.

Suggested Citation: Hillary DeLong, Jamie F. Chriqui, Julien Leider, and Frank J. Chaloupka. *Tobacco Product Pricing Laws: A State-by-State Analysis, 2015*. Chicago, IL: Tobacconomics Program, Institute for Health Research and Policy, School of Public Health, University of Illinois at Chicago. 2016. Available: www.tobacconomics.org.

Executive Summary

Introduction

State tobacco prices have seen a major increase since the 1950s and 1960s, due in large part to increases in both federal and state taxes.^{1,2} To combat the impact of price on consumer purchasing habits, many manufacturers introduced discounting techniques, such as coupons and multi-pack discounts.^{3,4} Although taxes are the most direct means of influencing tobacco prices,⁵ discount mechanisms can reduce the ultimate price and make tax increases less effective.^{6,7} Increased evidence showing a link between higher tobacco prices and reduced tobacco usage – seen most directly with increased tobacco taxes – has also increased interest in alternative means of raising tobacco prices, particularly where state tax increases are difficult to achieve. Outside of taxation, existing tobacco pricing policies provide one way by which states can address tobacco price increases.

State tobacco pricing laws, introduced in the 1940s and 1950s, were originally intended to prevent unfair or anti-competitive sales practices.^{8,9} These laws, which can apply to both cigarettes and other tobacco products (“OTP”), can range from simple to complex, and are found in nearly two-thirds of states. With the passage of the Master Settlement Agreement (“MSA”) in 1998 (which reduced the manufacturers’ ability to reach consumers through advertisements and other traditional marketing strategies),¹ companies moved towards targeting consumers and retailers in other ways. Couponing and multi-pack discounts both allow consumers to reduce the price of tobacco at the point of sale, while retailer discounts in the way of buydowns or master-type plans reduce the price before it even reached the shelf.^{4,6,7} These discounting strategies can reduce the effectiveness of pricing laws and taxation by reducing tobacco prices at key points along the distribution chain. This can have detrimental effects on tobacco consumption reduction efforts.

Most states’ tobacco product pricing laws have remained unchanged since they were implemented, despite a changing pricing landscape. As such, it is our hope that this chartbook will better inform states and municipalities seeking to implement or update their pricing laws, and assist the tobacco control community in exploring how pricing structures may impact consumption by:

1. Providing a detailed overview of the cigarette and tobacco product pricing laws in each of the 50 states and the District of Columbia (hereafter referred to collectively as “states”) in effect as of January 1, 2015;
2. Illustrating the state-by-state pricing formulas and components for both cigarettes and, where appropriate, other tobacco products;
3. Describing which, if any, discount mechanisms are included in each state’s pricing laws;
4. Evaluating each state’s pricing policies for factors that either increase or decrease the ultimate price;
5. Illustrating existing local pricing formulas and components for both cigarettes and, where appropriate, OTP in effect as of January 1, 2015; and
6. Identifying gaps and opportunities for state tobacco control advocates and policy makers relative to tobacco product pricing laws.

Methods

Data for this chartbook were compiled through primary legal research that collected each state's relevant state law, using the Lexis-Nexis and Westlaw legal research services. The relevant statutes and regulation that were in effect as of January 1st of each year, 2005 through 2015, were collected for all 50 states and the District of Columbia. This primary legal research was then verified against publicly available secondary sources, such as information from state departments of revenue or taxation websites, published articles, and state reports. Where codified law was invalidated by subsequent Attorney General opinions, Department of Revenue Notices, case law, or other administrative materials, those interpretations were used to guide collection and coding. Further ambiguities were clarified by directly contacting state enforcement agencies.

Upon review of the data, very little change was found over the decade examined. As such, this chartbook focuses primarily on 2015 data; select changes in law across the collection period are presented throughout for comparative purposes. Readers interested in reviewing the state-by-state data for all years can download the complete data set from the [Tobacconomics](http://www.tobacconomics.org) website.

Key Findings

- As of January 1, 2015, 31 states regulated the price of cigarettes through pricing laws. Twenty-seven of those states utilize a pre-determined markup to establish minimum price (“minimum markup”), while four establish a minimum price based on actual cost to the vendor (“minimum pricing”).
- Within the two main pricing strategies, there are five primary strategies incorporated into state laws that would contribute to an increased cigarette price: 1) the application of a statutory markup to the base cost of cigarettes (minimum markup); 2) the number of distributing parties regulated; 3) the inclusion of federal, state, and/or local taxes; 4) cartage; and 5) other fees.
- The most common increase factors include statutory markups (27 states), taxes (25 states), and the regulation of more than one distribution channel (25 states).
- Only four states have adjusted their markup rates between 2005 and 2015. At the wholesaler/distributor level, 26 states apply a statutory markup, which ranges from 2% - 6% with an average of 3.7%. At the retailer/dealer level, 24 states require a statutory markup, which ranges from 4% - 25%, with an overall average of 8.0%.
- There are six primary strategies within state pricing laws that would contribute to a decreased cigarette price: 1) coupons that reduce price below cost, and 2) the ability of consumers to use them; 3) below-cost combination sales; 4) the application of trade discounts, and 5) whether they are defined to include manufacturer-sponsored discount programs; and 6) competitor price matching. Two additional, related factors determine whether a state places any restrictions on either below-cost combination sales or competitor price matching, thus lessening the impact of both.
- The most common decrease factors include the ability of parties to match competitor pricing (26 states), the allowance of below-cost coupons (22 states), and the usage of trade discounts to reduce the base cost of cigarettes (21 states).

- Of the 26 states that allow below-cost coupons, nine states explicitly permit coupons to lower the price of cigarettes below cost, and 13 do not address coupons in any way (considered, for purposes of this study, as a passive form of permission).
- When examining both increase and decrease factors as they interact with one another, the benefits of approximately 12 states' increase factors are almost, if not completely, wiped out with the presence of decrease factors. Thus, some states may not see the benefits of increased tobacco prices where discounting mechanisms reduce the effectiveness of high, statutory markups.
- As of January, 1, 2015, two cities, New York City, NY, and Providence, RI, had established pricing schemes at the local level. While both cities now ban the redemption of below-cost coupons, New York City also established a floor price for cigarettes and little cigars of \$10.50/pack, and established minimum sales quantities of little cigars and cigars, often purchased as lower-cost cigarette substitutions.
- Of the 31 pricing states, only seven apply pricing schemes to some form of OTP. While most applied the same pricing scheme to both cigarettes and OTP, two states (New York and Rhode Island) used a less effective "minimum pricing" scheme to establish OTP prices, and a more stringent "minimum markup" scheme for cigarettes. While the majority of the states applied their pricing laws to multiple tobacco products, Massachusetts and Pennsylvania only applied their OTP pricing laws to little cigars.

Conclusion

Raising the price of tobacco remains one of the most successful strategies for reducing tobacco use⁵ and tobacco product pricing laws can be an effective tool in this effort. States and localities continue to utilize a variety of regulatory methods to strengthen their tax and price initiatives. This report demonstrates the wide variation in how states regulate prices of tobacco products and the impact these strategies can have on ultimate price. State tobacco minimum price laws have changed little over time and, for the most part, were not developed to improve public health. This report illustrates how local policies are shifting the underlying goals of these laws, and working to increase tobacco prices by limiting activities that may reduce the effectiveness of pricing formulations.

Section 1: Introduction

History of Cigarette Pricing in the United States

From the 1930s until the 1960s, cigarette prices, dictated by the leading tobacco manufacturers, remained fairly low and stable. Even with the steady introduction of state tobacco taxes (the number of states with a tobacco tax increased from 14 in 1932 to all states plus D.C. in 1970), price increases were minimal and taxes were generally low.^{1,2} However, cigarette prices began increasing sharply in the 1980s.¹ The federal tax rate for cigarettes doubled in 1983 to 16 cents per pack—this was the first increase since 1951 and many states followed suit, increasing their own taxes² over the next decade, some by more than 200%.¹

In the late 1980s and early 1990s, some companies introduced generic and deep discount brands, as well as mechanisms like couponing and multi-pack discounts, in an attempt to retain their price-sensitive consumers.^{1,3} By 1993, one thousand premium brand cigarettes cost \$70.10, while deep discount cigarettes, directed at price-sensitive consumers, cost approximately \$32 per thousand and held about 40% of the market.⁴ In an attempt to push premium brands back into dominance, Philip Morris introduced various promotional efforts and reduced the price of its premium Marlboro brand by \$0.40/pack in April 1993, an event later known as “Marlboro Friday.”⁴ Competing brands launched similar efforts, but premium prices rose again in the years following the Master Settlement Agreement of 1998 (MSA). Cigarette prices increased by a little more than \$1 per pack, exclusive of federal excise taxes, over the next 3.5 years.⁴

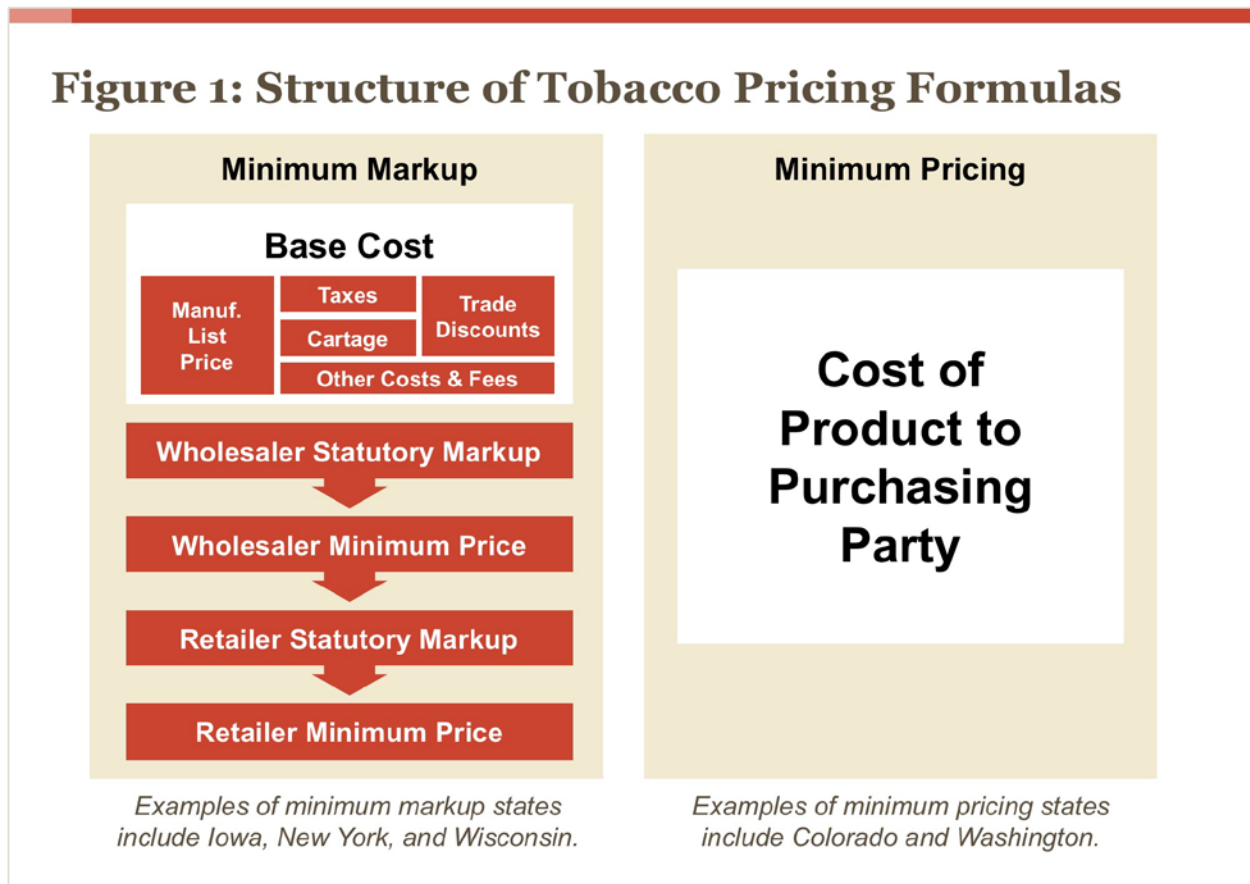
Cigarette and Tobacco Product Pricing Laws

While taxes are the most direct way that states influence tobacco prices,⁵ industry price discounting and price-reducing marketing techniques can make tax increases less effective.^{6,7} Due, in part, to a growing body of evidence showing that higher prices are linked with reduced tobacco usage, there also is growing interest in alternative approaches to raising tobacco prices, particularly when increasing state taxes is challenging. Utilizing existing policies to regulate tobacco prices is one way that states can address price increases in addition to, or outside of, taxation.

As a body of law, cigarette and tobacco product pricing regulation in the United States emerged in the 1940s and 1950s. These policies were originally intended to prevent unfair sales practices and to protect smaller businesses from the loss-leader practices of their larger competitors.^{8,9} These policies generally outlaw the intentional injury of competitors or competition, and can apply both civil and criminal penalties for violations.¹⁰ While these policies tend to focus on cigarette prices, the prices of other tobacco products (OTP), such as cigars, little cigars, snuff, or chewing tobacco, are also regulated by a handful of states.

Cigarette and tobacco product pricing laws can be broken into two main categories, those that require a statutory markup to be applied to the base cost of wholesalers and/or retailers (hereafter, “minimum markup”), and those that simply prohibit sales of products below actual cost (hereafter, “minimum price”) (See Figure 1). While the majority of pricing laws regulating cigarettes and tobacco products apply explicitly to those products, several states employ more

general pricing laws (hereafter, “unfair trade laws”) and can be either minimum pricing or markup laws. These laws (found in California, Hawaii, Colorado), are applied to the sale of tobacco products through agency opinions or state-level courts.



States utilizing a minimum markup strategy have several basic components that work to increase the base cost of tobacco products, including: a statutory markup, typically presented as a percentage of the base cost; taxes; cartage (a charge associated with the pickup and/or delivery of goods); and other fees.¹¹ Correspondingly, these formulas also contain components that generally work to decrease the base cost of tobacco products, including allowances for trade discounts. Tobacco product pricing laws can also allow for coupons, competitor price matching, and multi-pack discounts. Even where pricing laws dictate a statutory markup, most allow for parties to apply a lower-than-statutory markup where evidence of a lower cost of business can be shown.

Introduction of Pricing Strategies and Discount Mechanisms

Passage of the MSA severely limited the effectiveness of advertising, price promotions, sponsorships and other marketing strategies tobacco manufacturers used within the retail environment to reduce the price of their products.¹² Companies quickly shifted to strategies that targeted both consumers and retailers, directly.

In the years following implementation of the MSA, manufacturer spending on coupons and retail value-added programs, such as multi-pack discounts or cross-promotions, grew from \$1.5 billion in 1997 to \$3.1 billion by 1999.¹ A 1999 survey of retail stores in 42 states found that, more than 25% of stores surveyed offered multi-pack discounts.¹³ Pricing strategies directed at retailers included discounts such as buydowns (sales on existing inventory for a defined period of time). Buydowns saw a surge in popularity in the wake of the MSA, where, “unlike volume discounts, the entire price reduction is passed on to the customer.”¹² Reimbursement from the manufacturer for the sales over this defined period of time were given to retailers after the sale ended.¹² A similar pricing mechanism, “master-type program,” is a manufacturer-sanctioned discounting plan where stamping agents or wholesalers provide discounts to retailers and are later reimbursed by manufacturers.¹⁴

These types of discounting mechanisms have become pervasive in the U.S. tobacco market. A qualitative study of 29 tobacco retailers in 21 states in 2001 found that almost all retailers interviewed participated in buydowns.⁶ By 2013, manufacturer spending on discounting mechanisms reached \$8.95 billion, 85.4 percent of which (\$7.64 billion) went towards cigarette price reductions for wholesalers and retailers.¹⁵ Similar price reduction expenditures for smokeless tobacco products reached nearly \$282.7 million in 2013, and accounted for more than half of the total 2013 spending.¹⁶

Impact and Approaches to Pricing

Price increases are widely understood to decrease cigarette consumption; a 10% price increase can result in a 3-5% decrease in adult cigarette consumption and have an even greater impact on younger consumers.^{5,17} While tobacco product pricing laws work to set minimum sales prices for cigarettes and tobacco products, price discounting and price-reducing marketing strategies implemented by the tobacco industry can make such policies less effective. Because consumers, especially youth, are sensitive to price, the pricing strategies tobacco companies use to minimize cigarette markups can have a detrimental effect. The U.S. Surgeon General noted in 2012 that price-reduction techniques by the tobacco industry have “led to higher rates of tobacco use among young people than would have occurred in the absence of these promotions.”¹⁸ A similar report by the U.S. Surgeon General in 1994 found that the lower prices resulting from coupon usage can shift new users to regular smokers.¹⁹

Price increases are widely understood to decrease cigarette consumption; a 10% price increase can result in a 3-5% decrease in adult cigarette consumption and have an even greater impact on younger consumers.

The impact of price-based promotions is especially strong among particular groups, such as price-sensitive youth; and African Americans, who are more likely to take advantage of discounting programs regardless of income.²⁰ A study of youth smokers between 1999 and 2003 found that completely eliminating in-store, price-reducing promotions could result in a 13.4% decrease in established youth smokers (those who reported smoking regularly currently or within the past 30

days.²⁰ Similarly, every dollar added to the price of a pack of cigarettes reduced the likelihood that adolescents would become more serious or established smokers by 24%.²⁰⁻²¹

Statutory markup, which is meant to represent a party's cost of doing business, appears to be one of the largest determining factors of the final price consumers pay for tobacco products. These markups, applied to stamping agents, wholesalers, and retailers, vary by state. While these laws create a statutory framework for markups, the free market generally dictates an average markup of 18%.²² One area of concern is that retailer markups rarely rise to the level of the free market. Massachusetts, which requires a retailer markup of 25%, is the exception.²³

An additional concern is the scope of these laws. Generally, tobacco product pricing policies do not apply at the manufacturer level. This has the potential to diminish the effectiveness of minimum pricing laws because the base cost within pricing laws is typically derived from a manufacturer's list price. In fact, manufacturers tend to set lower list prices for products sold in states with more restrictive pricing laws.²⁴ This is addressed, in part, by several states that impose pricing regulations on integrated manufacturers—those acting as manufacturer, wholesaler, and retailer.^{25,26}

Discounting Mechanisms Today

In response to the rise in price promotions and discounting, some states have begun to crack down on discounting mechanisms previously allowed under their existing cigarette and tobacco product pricing laws. New York, in 2000, released interpretations of its Cigarette Marketing Standards Act (CMSA), stating that trade discount allowances, included in the pricing formula for stamping agents, wholesalers, and retailers, did not include buydowns or master-type programs, as these incentive programs do not deduct applicable rebates from the manufacturer's invoice price, instead crediting parties for these sales separately.¹⁰ Similarly, Massachusetts's pricing law prohibits any discount that reduces the retail price below the statutory minimum, including coupons or multi-pack discounts.⁶

In addition to state-level regulations,^{11,27} some local laws have recently been introduced that seek to minimize the impact of price promotions on cigarette sales. In 2013, Providence, R.I., implemented a law that prohibits the redemption of coupons and multi-pack deals that reduce price below-cost.²⁸ In 2014, New York City implemented a law which introduced a hybrid pricing formula for cigarettes and little cigars, maintaining the state-level wholesaler percentage markup, while amending the retailer markup to reflect an actual dollar amount (\$10.50/pack).²⁹ Both cities' laws were highly contested in the courts and have withstood industry challenges. [Section 5 includes specific information on these local laws.]

Purpose of This Chartbook

While many state cigarette and tobacco product pricing laws have been in place since the mid-20th century, little research has been done on the actual components of these laws, their interplay, effectiveness, and the impact of these individual components on ultimate price or consumption. Empirical evidence from previous studies into pricing laws is mixed. A 2005 study determined that cigarette prices were not significantly different between a sampling of states with and without pricing laws.³⁰ However, it did find higher retail prices in New York, where markup calculations

did not include discounting mechanisms.³⁰ A 2013 study found lower retail prices in states with pricing laws based on Nielsen retail scanner data.²²

More interest has developed in the effectiveness of various pricing strategies in the wake of recent local efforts to institute pricing minimums and limit discounting mechanisms. In a 2014 examination of pricing laws, a variety of potential strategies were discussed, including an increased statutory markup, an increased floor price, and a combination of the two.³¹ More recently, a 2016 study, which built upon previous findings, analyzed the existence of individual components of state-level pricing laws in both retail scanner data and self-reported prices, and found that while higher cigarette prices are found in states where the mere presence of minimum pricing laws exists, prices in states that seek to limit discounting mechanisms are even higher. Additionally, it found that pricing laws are more impactful on discount brands, and that states with high total markup rates were associated with significantly higher cigarette prices.³²

This chartbook identifies key components of state-level cigarette and tobacco product pricing laws, including statutory markups, taxes, and discounting mechanisms. It also provides a more comprehensive and functional understanding of state-level tobacco product pricing laws in response to growing interest in alternative strategies for increasing prices of tobacco products.

Most states' tobacco product pricing laws have remained unchanged since they were implemented, despite a changing pricing landscape. With several localities testing updated pricing strategies to address some of these market trends, a better understanding of these components may help to guide future state changes to existing pricing laws. As such, it is our hope that these data will better inform states and municipalities seeking to implement or update their pricing laws, and assist the tobacco control community in exploring how pricing structures may impact consumption.

Specifically, this chartbook:

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1. Provides a detailed overview of the cigarette and tobacco product pricing laws in each of the 50 states and the District of Columbia (hereafter referred to collectively as "states") in effect as of January 1, 2015;
 2. Illustrates the state-by-state pricing formulas and components for both cigarettes and, where appropriate, other tobacco products;
 3. Describes which, if any, discount mechanisms are included in each state's pricing laws;
 4. Evaluates each state's pricing policies for factors that either increase or decrease the ultimate price;
 5. Illustrates existing local pricing formulas and components for both cigarettes and, where appropriate, OTP in effect as of January 1, 2015; and
 6. Identifies gaps and opportunities for state tobacco control advocates and policy makers relative to tobacco product pricing laws.
-

Data Sources and Limitations

Data for this chartbook were compiled through primary legal research using Boolean terms and connectors in each state's statutes, regulations, relevant agency opinions, and (where appropriate) case law, available through commercial legal research services, [Lexis-Nexis](#) and [Westlaw](#). Research was conducted on laws in effect as of January 1 of each year, 2005 through 2015, inclusive. Upon review of the data, very little change was found over the decade examined. As such, this chartbook focuses primarily on 2015 data; select changes in law across the collection period are presented throughout for comparative purposes. Readers interested in reviewing the state-by-state data for all years can download the complete data set from the [Tobacconomics](#) website.

All relevant laws pertaining to the pricing of cigarettes or tobacco products were collected and evaluated for each state. The effective date of each year's tax rate was verified through session laws or administrative law history documents. To assess inter-coder reliability, all laws for all states for the year 2012 were reviewed and coded by two study authors, both attorneys. A consensus coding process was used to ensure accurate documentation of coding protocols and decision rules to guide the coding process. A copy of the coding tool and decision rule document is available on the [Tobacconomics](#) website.

Publicly available secondary sources, such as information from state departments of revenue or taxation websites, published articles, and state reports³³ were used to compare initial collection results and clarify ambiguities. Where codified law was invalidated by subsequent Attorney General opinions, Department of Revenue Notices, case law, or other administrative materials (as was the case in Kentucky³⁴), those interpretations were used to guide collection and coding. Further ambiguities regarding California and Idaho's respective pricing laws' applicability to tobacco were clarified by directly contacting state enforcement agencies.

The data contained within this report are limited as follows:

1. The data are based entirely on codified law as noted above. As such, other state policy instruments including, session laws (except for effective date verification), legislative bills, state constitutions, non-codified policies were beyond the scope of this study as were laws pertaining to enabling, direct sales, master settlement agreements or other non-tax issues.
2. The data presented focus on state-level cigarette and tobacco product pricing laws, and include general pricing laws that were explicitly applied to cigarettes or tobacco products by state courts or administrative agencies, such as state Attorneys General, or Departments of Revenue.
3. This chartbook does not examine the actual implementation or enforcement of these pricing laws at the state level.

Organization of the Report

This report is divided into six major sections. The next section ([Section 2](#)) explains the content areas examined in this chartbook, including tobacco product pricing strategies and discounting mechanisms. [Section 3](#) provides a national overview of tobacco product pricing policies across the states, focusing specifically on factors that tend to increase or decrease the base price of tobacco at the state level, as well as a national evaluation of these policies. [Section 4](#) includes detailed state profiles of tobacco product pricing policies. [Section 5](#) includes a detailed look at existing local tobacco product pricing policies (where they exist), including pricing formulas and discount regulation. The state and local profiles are followed by concluding comments ([Section 6](#)), references and appendices, including data tables comparing all 50 states and the District of Columbia.

Section 2: Policy Areas Covered

This section explains the two main areas examined in this chartbook, including the main pricing strategies applied to both cigarette and OTP sales, the markups and other factors involved in determining the list price, and the various discount mechanisms – and corresponding regulation – utilized in the sale of these products.

Cigarette and OTP Pricing Strategies

Cigarette and OTP are generally priced using three main types of policies:

1. Minimum Markup Laws
2. Minimum Pricing Laws
3. Unfair Trade Laws

Minimum markup laws apply specifically to cigarettes or OTP and require distributing parties to apply a markup percentage, meant to represent a presumed cost of doing business, to the base cost of the product.¹² States define the base cost in a variety of ways, including the invoice or replacement cost, the gross invoice cost, the wholesale minimum price, the manufacturer's list price, or in some cases, the selling price to other retailers. These markup laws often apply to more than one level of the distribution chain and each distribution level has a corresponding markup. As such, the ultimate consumer price may represent several percentage point increases across a standard distribution chain.

These laws also often require distributors to include any applicable excise taxes, as well as the cost of cartage (where incurred), or other applicable fees as required by law. While distributors in these states must apply a markup, some states allow parties to reduce the base cost by the amount of trade discounts received. As a general rule, most markup states allow distributors to prove a lower cost of doing business than the statutory requirement, which then becomes that distributor's statutory markup.

Minimum pricing laws also apply specifically to cigarettes or OTP, but do not require distributing parties to apply a markup percentage to the base cost of the product. Instead, a pricing floor is generally set by looking to the purchase price or "cost" of the product. Much like minimum markup laws, pricing laws can apply to several levels of the distribution chain. Unlike markup laws, however, there are few pricing guidelines or formulas establishing a firm definition of "cost." These laws are often silent as to the application of taxes or cartage, and are less likely to regulate the use of trade discounts. Fewer states utilize this method than minimum markup laws.

Unfair trade laws, as written, do not explicitly apply to cigarettes or OTP, but have been applied to these products by the state courts, or Attorney General. These laws can be either a pricing or markup law at heart, and therefore may also address the use of trade discounts, cartage, or taxes in the calculation of a distributor's ultimate sales price.

Increasing Tobacco Product Prices

Within all pricing policies, there are five key strategies or mechanisms that tend to increase the cost of cigarettes to the consumer:

1. Number of Parties Regulated
2. Statutory Markup
3. Taxes
4. Cartage
5. Other Costs

The **number of distribution levels regulated** by a state can increase the ultimate price of cigarettes by applying a statutory markup at several points along the distribution chain, and can help to regulate pricing on a more comprehensive level. Note: Where we calculate the number of parties a state regulates, we collapsed the traditional and cash and carry wholesaler categories, as any locality that regulates cash and carry wholesalers also regulates traditional wholesalers.

Statutory markups involve applying a pre-determined increase to the price of cigarettes (typically a percentage of the base cost), which can increase the ultimate price of cigarettes at multiple points along the distribution chain. The markup is meant to represent the cost of doing business for a distributing party (a seller's overhead, including salaries, rent, etc.), and can generally be lowered with proof of lower actual cost.

Taxes are often included when calculating the base cost of cigarettes, though some states choose to add the taxes onto the list price after the markup has already been calculated. By including taxes within the base cost of cigarettes, the statutory markup is applied to a higher base cost than if not included, and may generally result in a higher, ultimate sales price.

Cartage, the cost of delivering a product to another distributing party, is sometimes applied when calculating the base cost of cigarettes, although it is limited to parties that actually provide that service. In some instances, a presumed cost of cartage is required (generally as a percentage of purchase price). Similar to taxes, applying cartage to the base cost results in a higher base against which the statutory markup is applied, which may result in a higher ultimate sales price.

Other costs can be included in calculating the base cost of cigarettes, as well. For example, some states include pre-determined litter fees or Master Settlement Agreement (MSA) fees when calculating base cost, which raises the base against which the statutory markup is applied.

Decreasing Tobacco Product Prices

While many states require distributors to sell at a minimum price, these same laws often allow for various discounting mechanisms that may ultimately lower the statutory minimum. Some of these discounting mechanisms are used by the distributors and some by the ultimate consumer.

This chartbook will examine four main types of discounting mechanisms or factors that tend to decrease the ultimate consumer price of cigarettes:

1. Coupons
2. Combination or Multi-pack Sales
3. Competitor Price Matching
4. Trade Discounts

Coupons, generally offered by a distributor to the consumer, can sometimes lower the price of tobacco products below their statutory minimum. Some states regulate the distribution of coupons, preventing wholesalers or retailers from providing them directly to consumers. This leaves room for manufacturers to distribute coupons via mail or other means. Some states restrict any coupon distribution, while others simply prevent the use of coupons where the price is lowered below the statutory minimum. States that were silent on the use of coupons that would reduce price below cost were considered to permit such behavior.

***Note:** This chartbook specifically captured whether a state permitted discounts to lower the purchase price below statutory minimums, not where there was an outright ban on coupons (redemption or distribution), which is a recent trend in local tobacco product pricing policies.³⁵⁻*

³⁷ This decision was based on sample language we collected in our 2012 pilot study of seven states with a variety of tobacco control laws. In 2012, existing state policies focused on distribution, so our study focus was on the same, and parses out which parties are able to distribute. Language within these laws remained essentially unchanged for the entire collection period; otherwise, a shift in coupon language at the state-level may have triggered an additional look at how we were collecting coupon-focused data.

Combination or multi-pack sales, such as “buy-one-get-one” (BOGO) sales, provide discounts for volume purchases at the consumer level. These promotions can also include non-tobacco items, or OTP, as incentives. Some states regulate these sales, requiring the cost of all included products be included when calculating minimum sales price. Other states allow these sales to decrease the ultimate price below that of the actual cost to the distributing party. In those states, there are generally limitations to the allowance of such sales, such as the use of limited coupon types, reimbursements to seller for the difference in sale price versus actual cost, where manufacturers supply the bundled product or other limitations.

Competitor price matching is a frequently used mechanism in state regulation, as the original intent of tobacco product pricing laws was to promote fair competition.²⁷ These laws generally state that distributors may sell below their statutorily presumed cost of doing business if they are meeting the price of a competitor. The use of price matching is generally restricted in several ways. For example, the price of the competitor usually has to be one that has been approved by the state (or “legal”), and may be limited to competitors of similar type or geography.

Trade discounts are generally discounts that are given to a distributor at the time of sale. This timing is important, as many states disallow the application of discounts applied outside of a sale when calculating statutory minimums. Trade discounts, as we explore them in this chartbook, include several main types of discounts, including buydowns, master-type plans, and cash discounts (See Common Forms of Trade Discounts). Generally, states do not clearly define trade discounts within their tobacco product pricing laws, although some specifically account for cash discounts in their statutory pricing formulas.

Common Forms of Trade Discounts

Buydown (Paperless Coupon) - An agreement between a manufacturer and a dealer, where a manufacturer pays the dealer a certain amount per pack or carton of cigarettes if the dealer agrees to sell those packs or cartons at a discounted price. Such discounts often are instant rebates. Rebates can also be given for sale of a certain quantity of product in a set amount of time. The entire amount of the discount is passed on to the consumer.¹²

Master-Type Program or Plan - A program sponsored by a wholesale distributor where retailers receive rebates for selling a specific or minimum quantity of product over a set time frame and are then reimbursed by the wholesaler.³⁸

Cash Discount - Discounts given to retailers or wholesalers by manufacturers for prompt payment of invoices or for payment in a particular form (e.g. EFT payment). Some states explicitly disallow parties from using cash discounts in their pricing calculations.³⁹⁻⁴¹

National Evaluation Methodology

In addition to examining individual components of a state's pricing scheme, we looked at how those components worked together or against each other. For this chartbook, the strength of a state's cigarette pricing laws was determined using two main scales: one which measures the pricing components that tend to increase the final cost of cigarettes, and one that measures the pricing components that tend to decrease the final cost of cigarettes. Both of these scales, and their constituent sub-scales, are coded as "not applicable" if a state does not regulate the minimum price of cigarettes. While the decrease scale utilized negative values, the increase scale utilized positive values, and the sum of both was the resultant value.

Factors that Increase Cigarette Prices

This scale includes five individual components (distributing parties, statutory markup, cartage, tax, and other fees) with a maximum value of nine. All scales, with the exception of the markup scale, are dichotomous.

- **Distributing Parties:** This scale evaluates whether a state regulates pricing for two or more distributing parties (1=yes, 0=no). This valuation excludes cash and carry wholesalers, as they are a subset of traditional wholesalers.
- **Markup:** The markup scale represents an ordinal scale and evaluates the total markup percentage across the standard distribution channel (stamping agent, wholesaler/distributor, and retailer/dealer) (See [Appendix Table 4](#)). Scores were determined as follows: no markup (0 points); > 0 to 5.99% markup (1 point); 6% to 11.99% markup (2 points); 12% to 17.99% markup (3 points); 18% to 23.99% markup (4 points); and ≥ 24% markup (5 points).

- **Cartage, Tax, Other Fees:** Each of these scales (i.e., cartage scale, tax scale, and other fees scale) evaluate whether cartage, taxes, and other fees, respectively, are applied to the base cost of cigarettes at any level of distribution (for each scale, 1=yes, 0=no).

Factors that Decrease Cigarette Prices

This scale includes eight components (below-cost coupons and their usage by consumers; below-cost combination sales and their corresponding usage restrictions; the application of trade discounts in base cost calculations and whether those are defined to include manufacturer-sponsored discount programs; competitor price matching, and corresponding usage restrictions) with a maximum value of eight. All scales are dichotomous.

- **Below-Cost Coupons:** The below-cost coupon scale evaluates a state's stance on coupons that reduce the price of cigarettes below statutory minimum cost. A state is considered to permit their usage with either explicit language or silence (1=yes/silent, 0=no).
 - **Consumer Distribution:** The state is also evaluated on whether it explicitly (or implicitly through silence) allows consumers to receive below-cost coupons from distributors (1=yes, 0=no/silent).
- **Below-Cost Combination Sales:** The combination sales scale evaluates whether any combination sale type is explicitly permitted if it reduces the sale price below cost (1=yes, 0=no/silent).
 - **Restrictions:** The combination sale restriction scale evaluates whether a state applies explicit restrictions on below-cost combination sales, which would limit the ability to acquire below-cost cigarettes. For the purposes of this chartbook, a state that prohibits or is silent on below-cost combination sales is considered to utilize a restriction on said sales (1=no restrictions, 0=any restrictions).
- **Trade Discounts:** The trade discount scale evaluates whether a state explicitly allows any distributing party to reduce its base cost of cigarettes by applying trade discounts (1=yes, 0=no). The trade discount definition scale evaluates whether a state explicitly defines trade discounts to include manufacturer-sponsored discount programs, or if its trade discount definition is silent as to discount programs (1=included/silent, 0=not included, trade discounts not defined, or trade discounts do not reduce base cost).
- **Competitor Price Matching:** The competitor price matching scale evaluates whether a state explicitly allows distributing parties to meet a competitor's price (1=yes, 0=no/silent).
 - **Restrictions:** The price matching restriction scale evaluates whether there are restrictions regarding when a competitor's price may be met, which would limit the ability to acquire below-cost cigarettes. For the purposes of this chartbook, a state that prohibits or is silent on competitor price matching is considered to utilize a restriction on said sales (1=no restrictions, 0=any restrictions).




Section 3: National Overview of State Minimum Pricing Laws

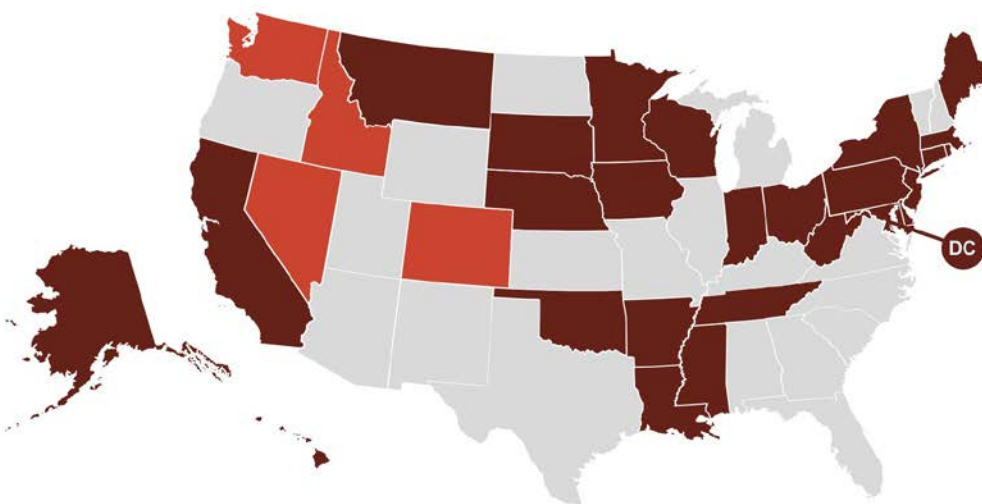
This section includes a national overview of state-level tobacco product pricing laws, including both cigarette and OTP pricing schemes, as of January 1, 2015. While this section contains summary data, detailed state-by-state analysis can be found in [Section 4](#). Companion slides, which contain the charts and tables from this section, are available on the [Tobacconomics](#) website.

Cigarette Pricing Schemes

Thirty-one states had minimum cigarette pricing laws as of January 1, 2015 (See Figure 2). Twenty-seven of the 31 minimum pricing policy states (MPP states) apply a statutory markup (percentage) to the base cost of cigarettes (See [Appendix Table 1](#)). The remaining four states' laws are considered solely minimum price laws, whereby parties are prohibited from selling cigarettes below that party's respective cost, and no statutory minimum markup is applied to the base cost.

Figure 2: U.S. Minimum Cigarette Pricing Scheme Types (2015)

-  **Minimum Markup:** Parties must add a statutory markup (percentage) to the base cost of cigarettes, which represents an assumed cost of doing business. [27 States]
-  **Minimum Pricing:** Parties are prohibited from selling cigarettes below that party's respective cost. No statutory markup (percentage) is applied. [4 States]
-  No minimum pricing laws [20 States]

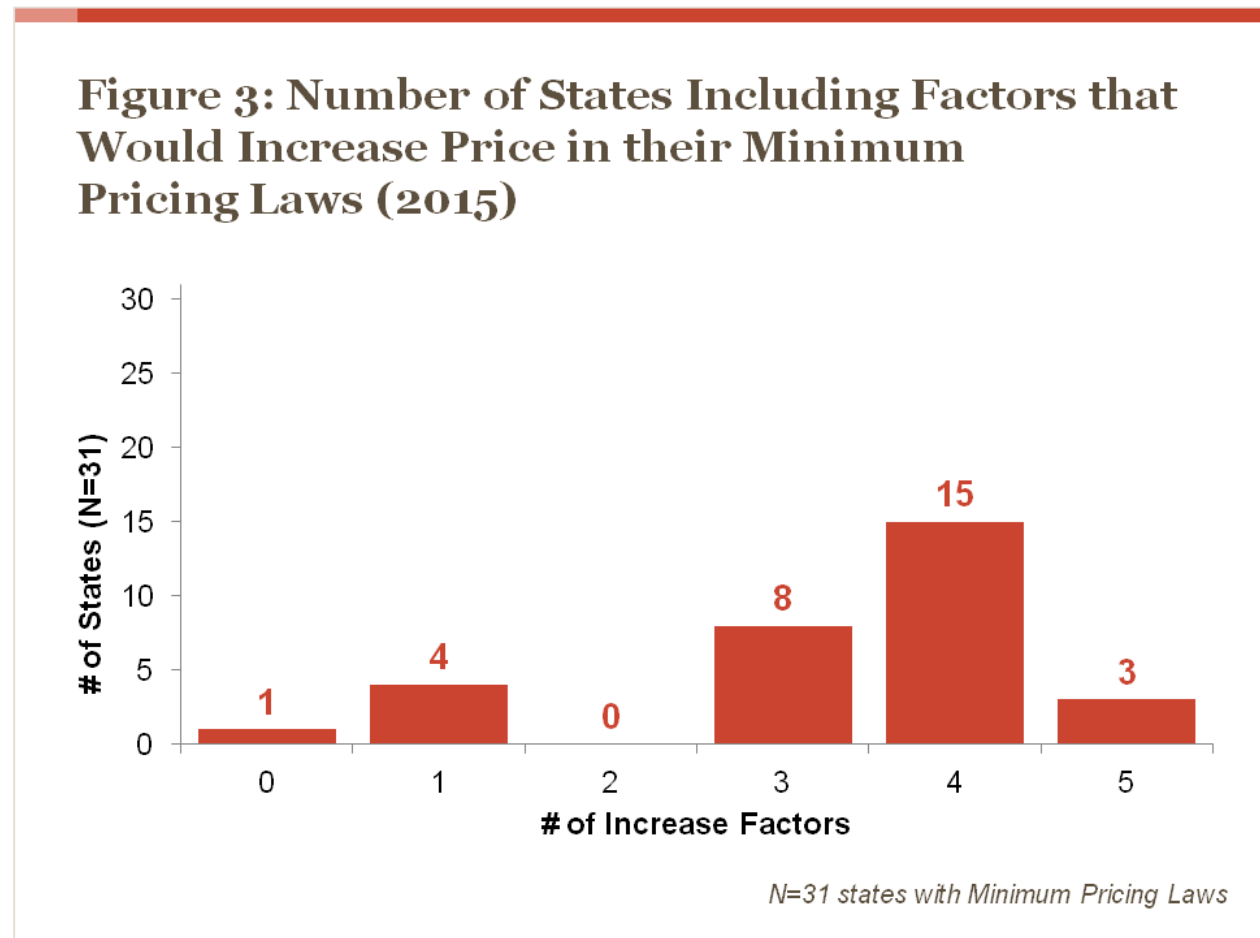


Factors that Contribute to Increased Cigarette Prices

Within the two main pricing strategies, there are five primary strategies incorporated into state laws that would contribute to an increased cigarette price:

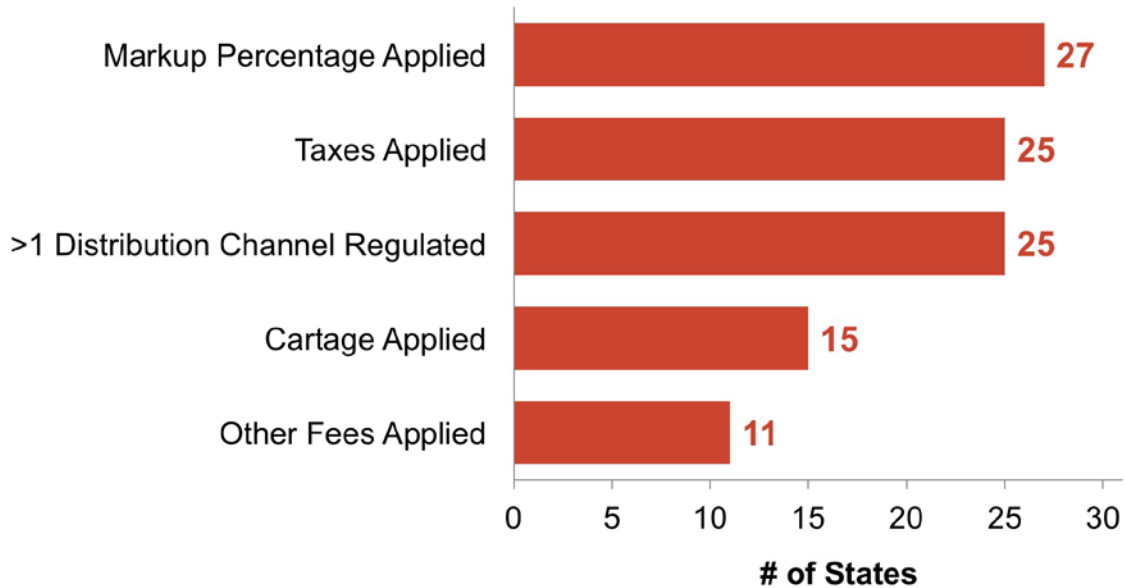
- 1) the application of a statutory markup to the base cost of cigarettes (minimum markup);
- 2) the number of distributing parties regulated;
- 3) the inclusion of federal, state, and/or local taxes;
- 4) cartage; and
- 5) other fees.

Thirty of the 31 MPP states require at least one increase component in their pricing strategies, with states utilizing between zero and five of these increase components. Nearly half (15) of MPP states apply four factors (See Figure 3 and [Appendix Table 2](#)).



The most common increase factors used by states include the application of a statutory markup, inclusion of taxes; and the regulation of more than one distribution channel (See Figure 4).

Figure 4: Frequency of Factors That Increase the Base Cost of Cigarettes (2015)



*N=31 states with Minimum Pricing Laws
(Data are not mutually exclusive)*

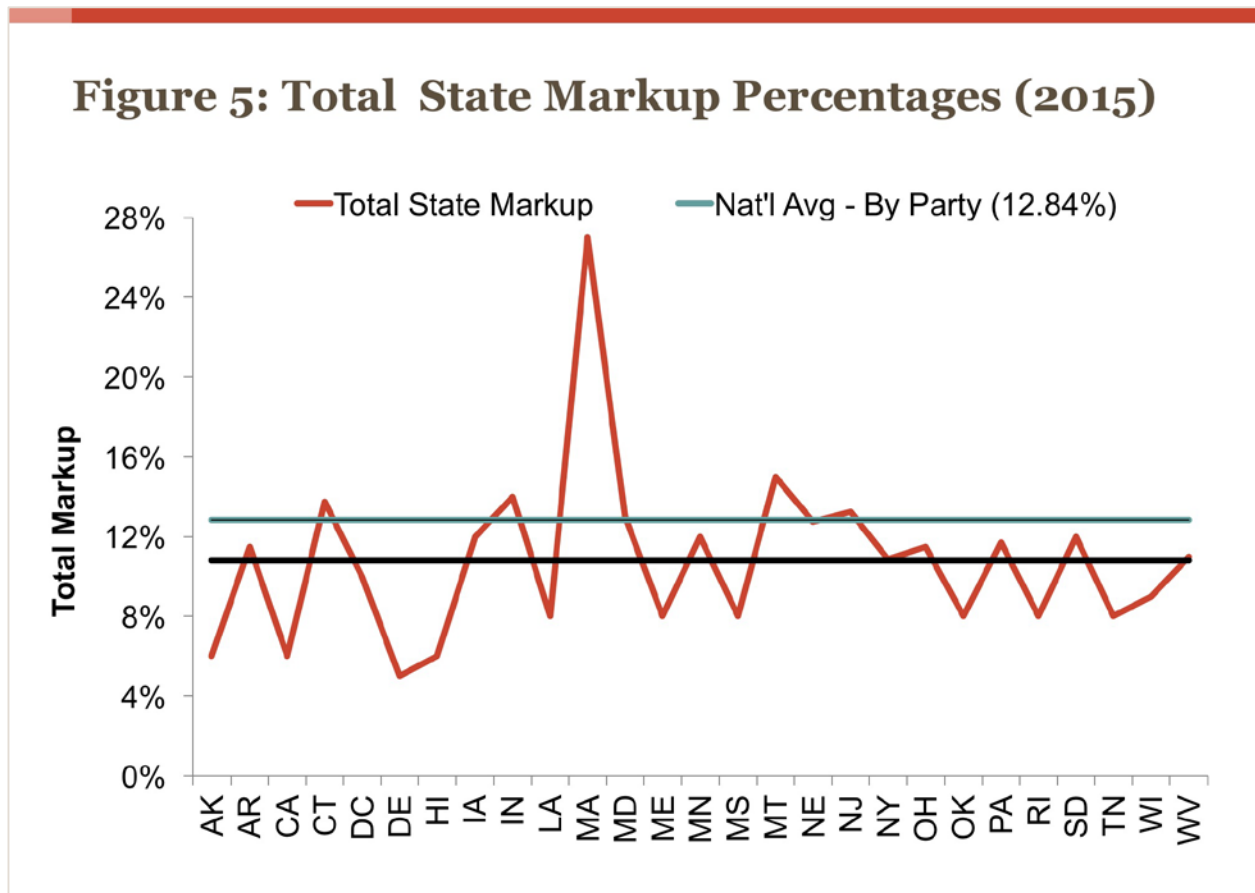
Statutory Markup Rates Applied to Base Cost

The application of a statutory markup is the most impactful of the increase factors and many states apply it to several levels of the distribution chain (See [Appendix Table 1](#)). Of the 31 MPP states, 27 apply a statutory markup (in the form of a percentage) defined within the law to represent a party's cost of doing business. This presumptive cost is, by definition, meant to represent operational and overhead costs, such as taxes, salaries, or rent, and ranges in value depending on the distribution party. Most states allow for parties to refute the presumptive cost and apply a lower cost provided sufficient evidence proves actual cost of doing business is lower than the statutory markup.

Once a cigarette leaves the manufacturer, it will typically travel through any or all of three main parties across a standard distribution chain: stamping agent (often an agent of the wholesaler or distributor), wholesaler/distributor, and retailer/dealer. As such, the total markup on a package of cigarettes depends on the comprehensiveness of a state's regulatory scheme. As of 2015, only three states apply a markup at the stamping agent level, ranging from 0.875% - 1.7%, with an average of 1.15%. At the wholesaler/distributor level, 26 states require a statutory markup, ranging from 2% - 6% with an average of 3.7%. At the retailer/dealer level, 24 states require a statutory markup. This distribution level usually has the highest markup—Massachusetts has the

highest at 25% and the remaining 23 states range from 4% - 10%, with an overall average of 8.0%. Excluding Massachusetts, the average retailer markup is 7.3%.

When these averages are calculated only for parties applying a markup, a pack of cigarettes would see a potential total average markup of 12.8%, with 19 states falling below this in total markup rates (See Figure 5). Conversely, when the averages are taken for each distributing party across all 27 markup states regardless of whether a state applies a markup to a particular party, the total average markup for a pack of cigarettes decreases to 10.8%. Twelve states (slightly fewer than half of the MPP states) fall below that average. (Note: These figures represent the sum of the markups, rather than the actual, multiplicative impact on retail prices.)



Compared with the markup rates of similarly-positioned parties within the distribution chain, wholesalers tend to have a slightly lower average markup (3.5%) than distributors (4.8%). The average markups for retailers (8.1%) and dealers (8.0%) are almost identical. Similarly, the average markup rate for integrated manufacturers (7.5%), that act as manufacturer, wholesaler, and retailer, falls well below the total average markup rate for cigarettes that travel through the wholesaler (3.5 %) and retailer (8.1%) levels separately ($\Sigma=11.6\%$) (See Table 1).

Table 1: Average Markup Rates Across Distributing Parties in Minimum Markup States (2015) (N=27)

Distribution Level	# of States	Lowest Total Markup	Highest Total Markup	Average Markup – Regulated Parties Only	Average Markup – All MPL States
Stamping Agent	3	0.875%	1.70%	1.15%	0.128%
Wholesaler	21	2%	5.25%	3.452%	2.685%
Distributor	5	3%	6%	4.775%	0.884%
Retailer	22	4%	25%	8.114%	6.611%
Dealer	1	8%	8%	8%	0.296%
Int. Manufacturer	2	6%	9%	7.5%	0.556%
Other*	1	9%	9%	9%	0.333%

**“Other” party was only coded for one state (ME), and represents “Multiple Retailer.”*

Overall, the statutory markup rates have remained fairly static from 2005 to 2015, with only four states adjusting their markup rates, three increasing markup rates, and one decreasing rates (See Table 2).

Table 2: States with Statutory Markup Rate Changes Between 2005 and 2015

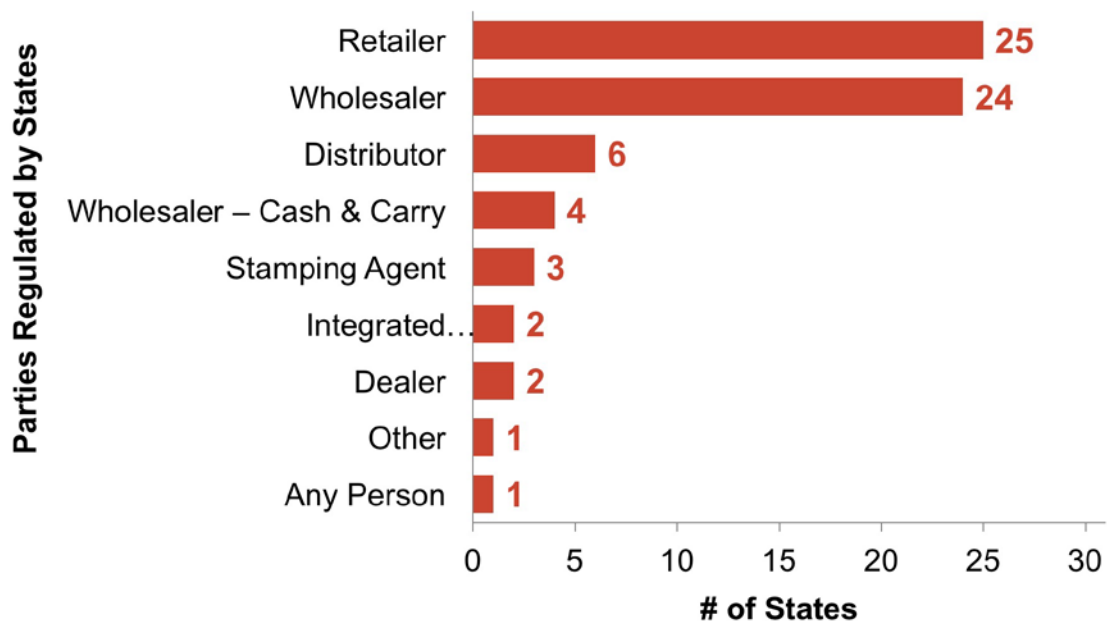
State	Party	2005	2015
Alaska	Wholesaler	4.5%	2%
	Retailer	6%	4%
Indiana	Retailer	8%	10%
Iowa	Wholesaler	3%	4%
Nebraska	Wholesaler	4%	4.75%

While an increase in statutory markup may reflect a desire among some states to increase overall price, in at least one state (Nebraska), the increased wholesaler markup appears to reflect the inclusion of the cost of cartage, which was previously applied separately.⁴²

Number of Distributing Parties Regulated

Within the area of minimum pricing, states regulate the distribution channels of tobacco on a wide range of levels (See Figure 6). The most common distribution levels regulated are wholesalers (25 states) and retailers (24 states). In lieu of wholesalers and retailers, some states use the terms distributors (six states) and dealers (two states), respectively. A handful of states regulate additional parties, such as cash and carry wholesalers (wholesalers that do not provide delivery or shipment of their products) (four states), stamping agents (three states), integrated manufacturers (parties who act as manufacturer, wholesaler, and retailer) (two states), or “other” parties (one state) (See Figure 2). One state (Colorado) uses the term “any person,” which includes distributors and vendors.⁴³ The majority of MPP states (26) apply those laws to more than one distributing party. Most MPP states (17) apply their laws to two parties, while eight MPP states apply their laws to three parties. The highest number of distributing parties regulated within this body of law was five, and only one state (Wisconsin) regulated to that degree.

Figure 6: Number of States Regulating Minimum Pricing by Party Type (2015)



Note: Data are not mutually exclusive

Variability of the Number of Parties Regulated Relative to Total Consumer Markup

The consumer impact of a statutory markup is positively correlated with the number of distributing parties who must apply them. As the number of times a markup is applied increases, so does the ultimate consumer price. There are three main levels of distribution that tobacco can pass through in its typical path to the consumer: stamping agent, wholesaler/distributor, and retailer/dealer. As such, states can be broken into categories based on whether they apply markups at one, two, or all three of those levels.

Of the 27 states that apply statutory markups, we generally found a direct correlation between the number of parties regulated and a higher statutory markup (See Table 3). While excluded in this analysis, two of the four MPP states that do not utilize markups regulate tobacco prices at two levels, while the remaining two states regulate at one level.

Table 3: Markup Rate Differences with Increased Distribution Level Regulation (2015)

Distribution Levels Regulated	# of States	Lowest Total Markup	Highest Total Markup	Average * Total Markup
One Level	4	5% (DE)	8% (TN)	6%
Two Levels	20	8% (Multiple)	27% (MA)	11.79%
Three Levels	3	10.875% (NY)	13.75% (CT)	12.11%

* Average of parties regulating that respective level of distribution.

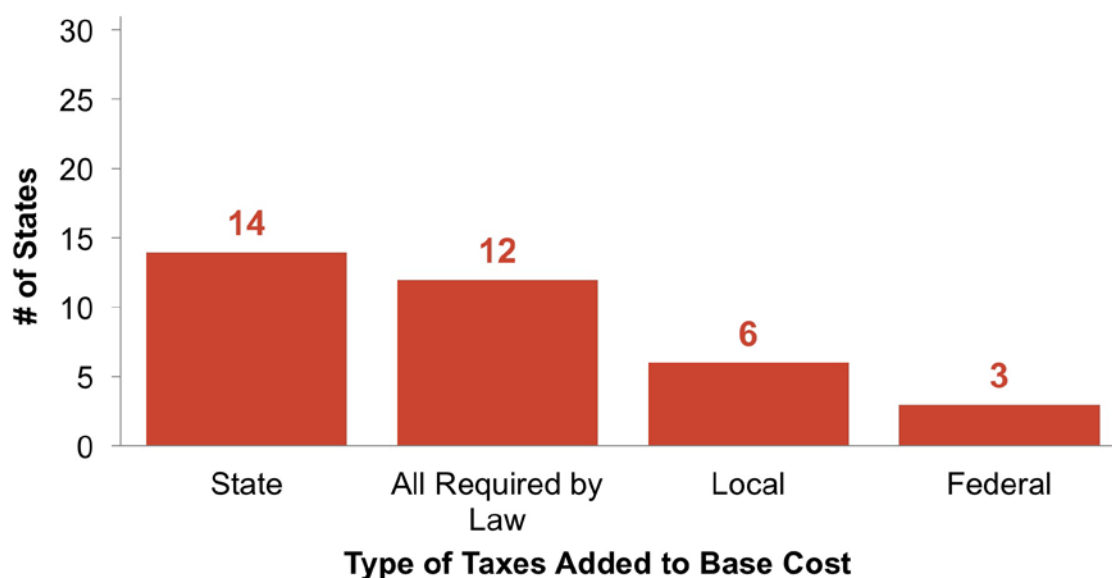
Examination of the average total markups for all three regulation types reveals a positive relationship between total markup and number of levels regulated. *Note: One clear outlier in this relationship is Massachusetts, which has a 25% retail markup that pushes the two-level system's maximum total markup above that of the states that apply markups at all three levels. The removal of Massachusetts from the analysis still results in a higher maximum total markup for the two level system (15%) than the three-level system (13.75%), but the average total markup for a two-level regulation system remains lower than that of the three-level regulation system, regardless of Massachusetts's inclusion.*

Inclusion of Taxes in Minimum Price

Taxes are a fairly common component of minimum pricing schemes, although the type of taxes included varies. Of the 31 MPP states, 25 require some form of taxes to be included in the statutory minimum price (See Figure 7). While federal taxes are generally applied at the manufacturer level and are typically passed along to subsequent purchasers within the list price, some states explicitly specify that federal taxes must be applied to the cost of cigarettes if not already included. Approximately half of MPP states use explicit language to apply one or more types of taxation to the base cost of cigarettes: state (14), local (six), or federal (three). The remaining MPP states that include taxes in their pricing schemes (12) use broader language within their definitions of “cost,” referring instead of full face value of any applicable taxes not otherwise included in the base cost.

Perhaps most importantly, of the 27 markup states, 22 explicitly include taxes in the base cost of cigarettes. Applying taxes in this manner increases the size of the base cost to which the markup applies, and results in a higher retail price than in pricing schemes that add taxes to the price of cigarettes after the markup has been applied. Most states apply taxes to the base cost in one lump sum as a means of calculating the base cost, to which the markup is applied. The full taxation amount is then generally passed along to the subsequent purchaser through the invoice price. However, one state (Iowa), applies 50% of applicable taxes to the basic cost (the base cost of cigarettes used by both wholesalers and retailers to which the markup is applied); the remaining

Figure 7: Number of States Requiring Taxes to be Included in or Added to Base Cost of Cigarettes (2015)



N=31 states with Minimum Pricing Laws

50% of applicable taxes are applied by both the wholesaler and retailer after the markup has been applied (See [Iowa State Page](#)).

Application of Cartage to Minimum Price

The fourth factor that tends to increase the cost of cigarettes is cartage, the cost of transportation or delivery of the product to the purchaser. This is a less commonly applied factor and results in a fairly nominal increase in the cost of cigarettes. Approximately half (15) of MPP states require parties who incur the cost of actually performing the delivery or transportation of goods to include that cost in the price of their cigarettes (See Table 4). Some states quantify that amount, which can range from 0.5% to 1.5% of the base cost. Some states appear to build the cost of cartage into their markup rates, rather than applying it separately, which may be inferred by the reduced markups applied to cash and carry wholesalers, as compared to standard wholesalers (See [Appendix Table 1](#)). One state (Nebraska) amended its cost formula in 2008, seemingly to roll the presumptive cartage costs (0.75% of base cost) into the statutory markup, which increased by the same amount.⁴⁴

Table 4: Minimum Pricing States with Specified Cartage Amounts (2015)

State	Distributing Parties				
	Stamping Agent	Wholesaler	Distributor	Retailer	Int. Manuf.
Nat'l Avg	0.75%	0.775%	0.625%	0.75%	0.75%
CT	0.75%		0.75%		
IN			0.50%		
LA		0.75%		0.75%	
ME		0.75%		0.75%	0.75%
MA		0.75%			
MN		0.50%			
MS		0.50%			
MT		0.75%			
NE				0.75%	
NJ		0.75%			
OH				0.75%	
OK		0.75%		0.75%	
RI		0.75%		0.75%	
SD		1.50%			

No states specify cartage amounts for cash and carry wholesalers, dealers, any person, or "other" parties.

Application of Other Amounts to Minimum Price

The final factor that tends to increase the cost of cigarettes acts as a catch-all, and includes “other” fees. This broader category captures specific costs to be added to the base cost, including additional freight charges, transportation fees, or other named costs, as well as unnamed “other” costs. Eleven states apply “other” fees or costs to the base cost of cigarettes (See Table 5). Specifically, these items include freight charges (eight states), transportation costs (Wisconsin), “Non-Settlement” fees for non-participatory manufacturers (Minnesota), and any other taxes and fees not otherwise included (Tennessee). Interestingly, four states require the application of both cartage and freight charges to the base cost: Hawaii, Louisiana, Maine, and Rhode Island (See Tables 2 and 3). Wisconsin’s application of “transportation costs” (and the absence of cartage application) suggests a possibly intentional use of broader language.

Table 5: Minimum Pricing States with “Other” Costs Added to the Base Cost of Cigarettes (2015)

State	Freight Charges	Other Costs
DE	✓	
HI	✓	
LA	✓	
ME	✓	
MD	✓	
MN		Other Fees
PA	✓	
RI	✓	
TN		Taxes/Fees
WV	✓	
WI		Transportation Charges

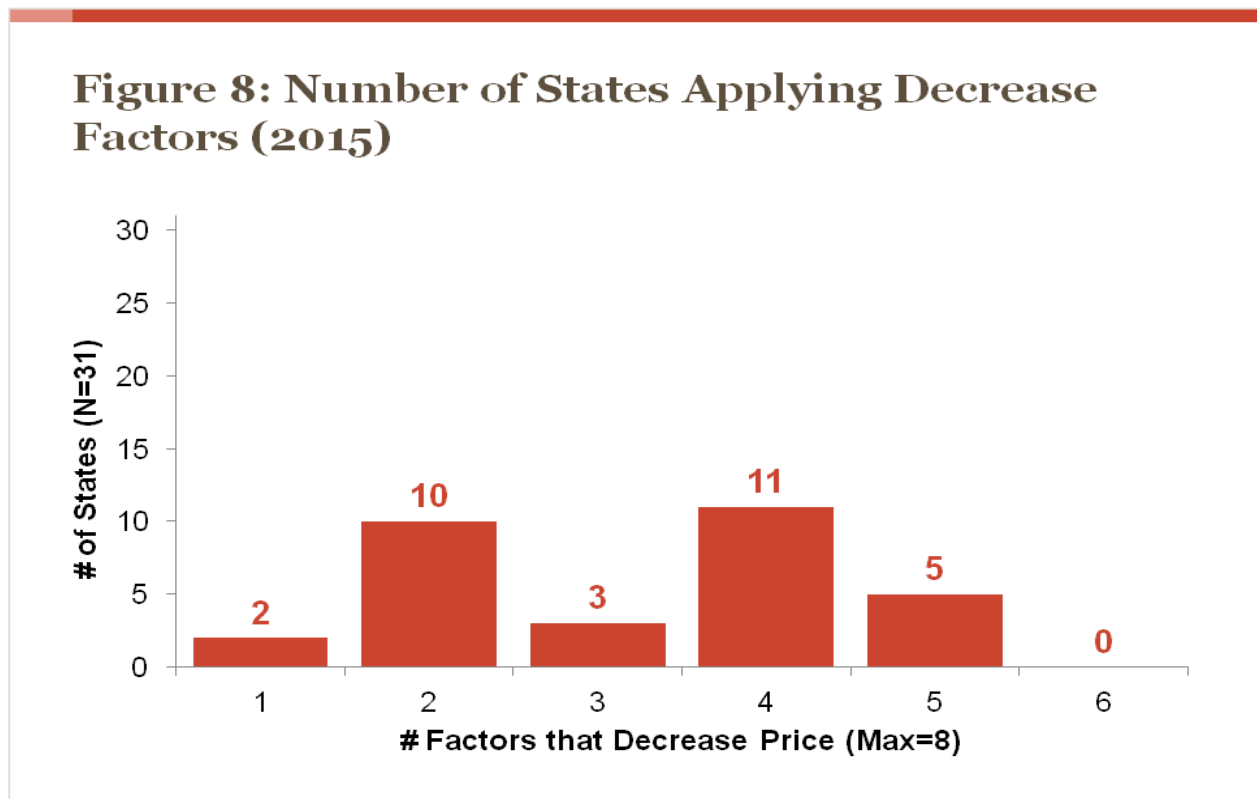
Factors that Contribute to Decreased Cigarette Prices

In addition to factors that tend to increase price, this chartbook also identifies eight factors that tend to decrease statutory price. Six of these factors decrease prices outright, while two factors function as restrictions on the impact of the others. These restrictions are categorized as decrease factors because they will never add to the base cost of cigarettes (the defining characteristic of increase factors), even while they lessen the impact of another decreasing factor.

The six main decrease factors include:

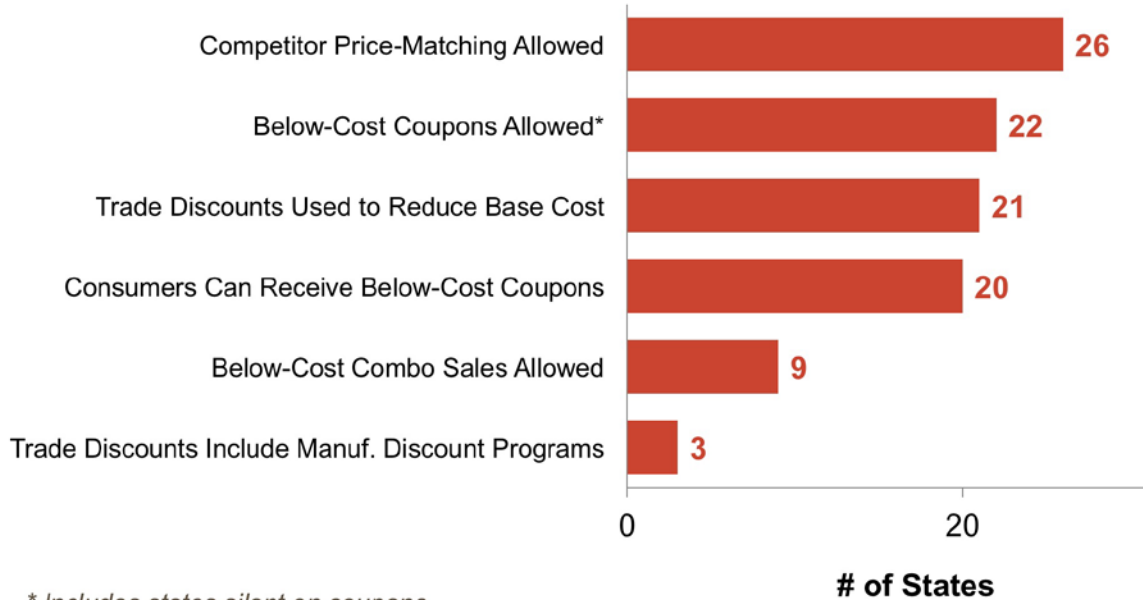
- 1) coupons that reduce price below cost, and
- 2) the ability of consumers to use them;
- 3) below-cost combination sales;
- 4) the application of trade discounts, and
- 5) whether they are defined to include manufacturer-sponsored discount programs; and
- 6) competitor price matching.

Two additional, related factors determine whether a state places any restrictions on either below-cost combination sales or competitor price matching, thus lessening the impact of both. Of the 31 MPP states, the number of main decrease factors applied ranged from one to five, with an average of 3.2 factors applied (See Figure 8 and [Appendix Table 3](#)). The majority of MPP states (19) utilize three or more decrease factors.



Some of the six main decrease factors were far more prevalent than others (See Figure 9). The most common decrease factor (26 states) was the ability of parties to match competitor pricing. The least commonly applied factor was the inclusion of manufacturer-sponsored discount programs in the state’s definition of “trade discounts” (three states). One reason for this is that many states do not codify any definition of trade discounts, which are commonly used to reduce the base cost of cigarettes. The lack of clarity within state laws regulating trade discounts can cause confusion in price calculation for distributing parties and leave room for manufacturers to utilize these programs, which can ultimately lower and weaken a pricing scheme’s intended effect.

Figure 9: Frequency of Factors That Decrease the Base Cost of Cigarettes (2015)



* Includes states silent on coupons

N=31 states with Minimum Pricing Laws
Note: Data are not mutually exclusive

Factors that tend to decrease the price of cigarettes work against those that tend to increase the price. Because the intended goal of statutory markups and minimum prices was to eliminate anti-competitive pricing, discounting mechanisms applied equally across distributors do not act against this purpose. However, recent efforts to utilize these laws as a means of reducing tobacco consumption reflect a new tension between competition goals and public health advocates, whose efforts to raise prices to reduce consumption are impacted by pervasive discounting strategies.

Coupons

Of the 31 MPP states, nine states explicitly prohibit coupons from lowering the price below cost, another nine states permit coupons to lower the price of cigarettes below cost, and 13 do not address coupons in any way. In this area, a state's silence can be seen as a passive form of permission. Of the nine states that explicitly allow coupons to reduce the price of cigarettes below cost, consumers can receive coupons from a variety of distributing parties. Seven states allow manufacturers to distribute coupons to consumers, while one state (Maryland) also allows distribution by wholesalers and retailers (See Table 6).

Table 6: States that Address Parties Who Can Distribute Below-Cost Coupons to Consumers (2015)

State	Manufacturer	Wholesaler	Retailer	Silent
AR	✓			
CT				✓
DE				✓
IA	✓			
MD	✓	✓	✓	
NE	✓			
PA	✓			
TN	✓			
WV	✓			

No states explicitly permit dealers, distributors, stamping agents, or “other” parties to distribute coupons to consumers.

As state laws rarely appear to address or regulate tobacco manufacturer actions, it is possible that the proliferation of coupons by manufacturers is greater than explicit state law suggests, particularly in the 13 states with laws that are largely silent on the area of coupon use or distribution. No below-cost coupon state explicitly allowed stamping agents or “other” parties to distribute coupons to consumers; however, two states (Connecticut and Delaware) that allow for coupons to reduce the price below cost did not dictate within their pricing laws which parties may distribute coupons directly to consumers.

Combination Sales

One area of law that can result in reduced cigarette and tobacco product pricing is the use of combination sales to move more products, often at a reduced price. Three main types of combination sales were identified within minimum pricing laws: 1) Multi-pack/Buy-One-Get-One (BOGO); 2) Tobacco and Non-tobacco product; and 3) Cigarette and OTP. Of the 31 MPP states, 26 address at least one of the three types of combination sales identified (See Table 7). Interestingly, the language used to address these sales is almost identical across states, and generally permits these sale types to varying degrees. This fairly consistent language is illustrated by the number of combination types addressed. In fact, only six states address fewer than all three combination sale types: one state addresses a single type of combination sale, while five states address two types. Conversely, 20 states address all three combination sale types. Of the 26 states

that do address any type of combination sale, more than one-third (nine) allow for those combination sales to be sold below cost.

Table 7: Combination Sales by Type (2015)

State	Buy One, Get One or Multi-Pack Sales		Tobacco + Coupon, Concession, or Rebate		Tobacco + Non-Tobacco Product	
	Addressed	Below-Cost	Addressed	Below-Cost	Addressed	Below-Cost
AK			✓		✓	
AR	✓		✓	✓	✓	
CO	✓		✓		✓	
CT	✓	✓	✓	✓	✓	✓
DE	✓		✓	✓	✓	
IA	✓	✓	✓	✓	✓	✓
IN	✓		✓		✓	
LA	✓				✓	
MA	✓		✓		✓	
MD	✓	✓	✓	✓	✓	✓
ME	✓				✓	
MN	✓		✓		✓	
MS	✓		✓		✓	
MT	✓	✓			✓	✓
NE	✓		✓	✓	✓	
NJ	✓		✓		✓	
NV	✓		✓		✓	
NY	✓		✓		✓	
OH	✓		✓		✓	
OK	✓		✓		✓	
PA	✓		✓	✓	✓	
RI	✓				✓	
SD	✓		✓		✓	
TN	✓		✓		✓	
WI	✓				✓	
WV			✓	✓		
Total	25	4	21	8	25	4

Restrictions on Combination Sales

Of the 31 MPP states, 22 do not place any restrictions on combination sales (including those that are silent on combination sales altogether). All nine states that allow below-cost combination sales apply at least one restriction, with three states applying two types of restrictions, and only one state (Iowa) applying three types, the maximum amount of identified restrictions (See Table 8).

Table 8: States with Restrictions Placed on Below-Cost Combination Sales (2015)

State	When Using Manufacturer Coupons/ Concessions	Where Manufacturer or Other Distributing Party Provides Seller the Difference in Sale Price vs. Actual Cost	Where Manufacturer Supplies a Gratis Product Being Bundled with the Sale
AR	✓	✓	
CT	✓		✓
DE	✓		
IA	✓	✓	✓
MD	✓		
MT			✓
NE	✓		
PA	✓	✓	
WV		✓	
Totals	7	4	3

Common restrictions include the allowance of below-cost combination sales only where: 1) a consumer uses a manufacturer coupon/concessions (seven states); 2) the manufacturer or other distributing party compensates the seller for the difference in sale price versus actual cost (e.g., value of the coupon used by the consumer) (four states); and 3) the manufacturer supplies the free product being bundled with the sale (three states).

The most limitations in the nine below-cost states seem to exist with the combination of tobacco products and coupons or concessions, where eight states place restrictions in this category. The other two categories are both restricted similarly, each by four states. Of the types of scenarios where products can be sold below cost, the use of the manufacturer's coupon is the most common reason (seen in all three types of combination sales). Other

scenarios involve the compensation of the distributor, which makes up the difference in cost; as well as when manufacturers provide the products for free to the vendor (See Figure 10).

Figure 10: Restrictions Placed on Below-Cost Combination Sales by Type (2015)



N=31 states with Minimum Pricing Laws

Note: As many states utilize multiple restriction types in tandem, data within each type are not mutually exclusive.

Trade Discounts

One of the more prevalent provisions within state pricing schemes is the deduction of trade discounts from the base cost of cigarettes. Generally, these trade discounts are left undefined, although this typically includes discounts for bulk purchases, cash payments, or similar discounting. Approximately two-thirds of all minimum price states (21) allow parties to reduce their base cost using trade discounts (See Table 9). While many states leave these discounts undefined, two states specify a percentage within their codified laws, which range from 2% (New Jersey) to 2.5% (Nevada) of the base cost.

Table 9: Minimum Pricing States That Allow Cigarette Base Costs to be Reduced by Trade Discounts, by Party (2015)

State	Distribution Level at which Trade Discounts Are Applied					
	Basic Cost	Wholesaler	Wholesaler- CC	Retailer	Distributor	Int. Manuf.
AK		✓				
CA					✓	
CT	✓					
DE	✓					
HI					✓	
IN	✓					
IA	✓					
LA		✓		✓		
ME		✓		✓		✓
MD	✓					
MA	✓			✓		
MS	✓					
NV	2.5%					
NJ	2%					
NY	✓					
OH		✓	✓	✓		
OK	✓					
RI	✓					
SD	✓					
WV		✓		✓		
WI		✓		✓		

No states explicitly permit dealers, stamping agents, "any person," or "other" parties to lower base costs with trade discounts.

In some states, discounts for cash payments are separated from other trade discounts, and parties may reduce their costs by both. One example of that is seen in Delaware’s pricing scheme, where laws explicitly allow separate deductions for both trade discounts (no presumptive discount percentage) and discounts for cash payments (a presumptive discount of 2%), both of which are to be removed from the invoice cost.

The impact of trade discounts is seen in the ultimate sale price, as the base cost of the product is reduced by the amount of the trade discount prior to the application of any statutory markup. This lowers the overall “cost” of the product to subsequent distributors, resulting in a reduced base cost to which other markups are applied. Ultimately this leads to a lower consumer sales price than if the discounts were not applied. Some states, such as Arkansas, explicitly prohibit the inclusion of trade discounts when determining base cost, thus allowing the markup to have its intended effect.²⁶

Discount Programs

While one of the potential dangers in the application of trade discounts is in its often vague or nonexistent definition, additional price decreases may result where states do define trade discounts, and decide to do so more broadly. Of the 21 states that allow parties to reduce their costs by applicable trade discounts, only four actually define them in any way (See Table 10).

An additional state, Nebraska, does not allow parties to reduce their costs by the amount of applicable trade discounts, but still defines them.

Table 10: Trade Discounts: Definitions and Cost Reductions (2015)

State	Types of Discounting Programs							
	Trade Discounts		Buy Downs		Master-Type Plans		Paperless Coupons	
	Defined	Reduces Cost	Defined or Discussed	Reduces Cost	Defined or Discussed	Reduces Cost	Defined or Discussed	Reduces Cost
AK			✓				✓	
MD		✓	✓	✓		✓		✓
MA	✓	✓	✓		✓			
NE	✓		✓					
NY	✓	✓	✓		✓			
OH		✓						
OK	✓	✓	✓	✓		✓		✓
WI	✓	✓		✓				
Totals	5	6	6	3	2	2	1	2

In addition to defining trade discounts, some states also define or discuss manufacturer-sponsored programs, such as buydowns, master-type plans, and paperless coupons (another term for buy down). Much of this clarity is found in Department of Revenue Rulings or Notices, or other secondary and supplemental resources, rather than in codified law. Six states define or discuss some of these three programs—no state defines or discusses all three. Buydowns are the most discussed or defined (all six states do so); one of those states (Alaska) also discusses paperless coupons, which is another term for buydowns. Two of those states also define or discuss master-type plans (See Table 10).

Of the four states that allow and define trade discounts, only three allow parties to include discounts incurred through manufacturer-sponsored programs for purposes of calculating presumptive cost: Maryland, Oklahoma, and Wisconsin. Interestingly, Wisconsin does not define any of the three manufacturer-sponsored programs, despite their inclusion in cost formulas. On the opposite end of the spectrum, two states, Massachusetts and New York, that define trade discounts, and allow parties to use them to reduce presumptive cost, explicitly prohibiting parties from using buydowns and master-type plans when calculating product cost.

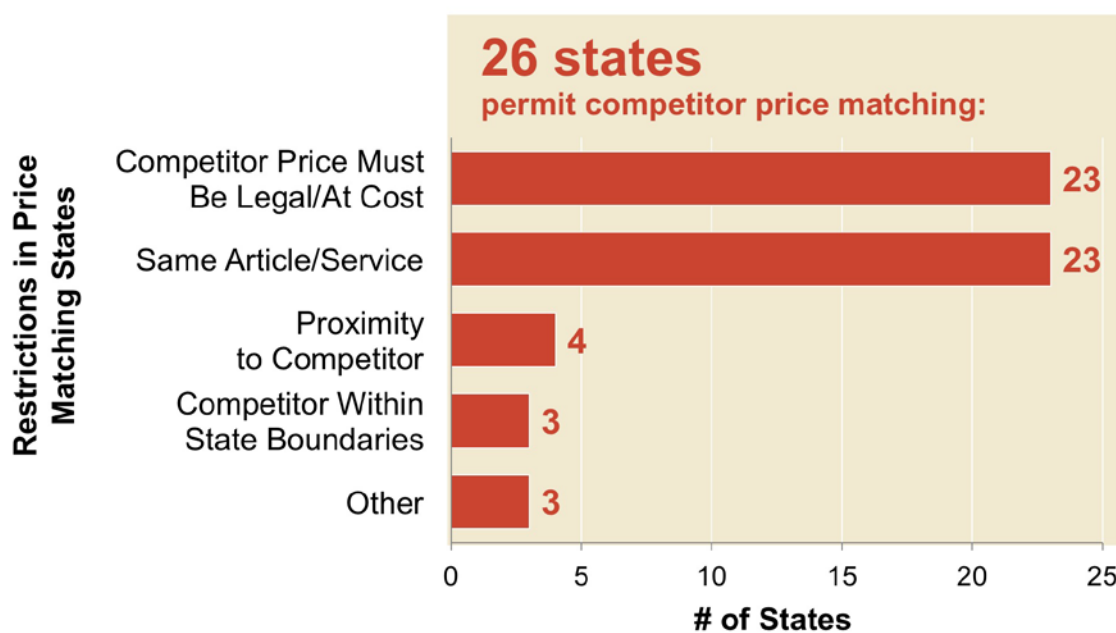
By expanding trade discounts to include manufacturer-sponsored discounting programs (such as buydowns), the cost of the product can be further decreased, which impacts the final consumer

price. As evidenced above, the practice of defining trade discounts to explicitly include manufacturer-sponsored programs is less common, however, than general trade discount usage.

Competitor Price Matching

While appropriate for a state’s fair competition goals, the ability of distributing parties to meet the prices of their competitors is potentially destructive to a state’s public health goals. Price matching, which often allows vendors to meet prices that are below both state presumptive costs, as well as the vendor’s own actual costs, can allow vendors to lower the minimum price of cigarettes and tobacco products. In markup states, vendors are generally able to prove a lower cost of business than the presumptive markup reflects through a formal process. Competitors to those vendors in states that allow price matching can legally lower their prices to match, regardless of whether that adjusted price reflects the true cost to the competing vendor. While price matching is often restricted in some ways, price matching laws can have the effect of lowering the ultimate retail price across many retailers, thus impacting public health goals of reducing tobacco consumption through higher pricing. Of the 31 MPP states, 26 explicitly allow parties to meet the price of a competitor (See Figure 11).

Figure 11: Restrictions on Competitor Price Matching Where Permitted (2015)



*N=31 states with Minimum Pricing Laws
Note: Data are not mutually exclusive*

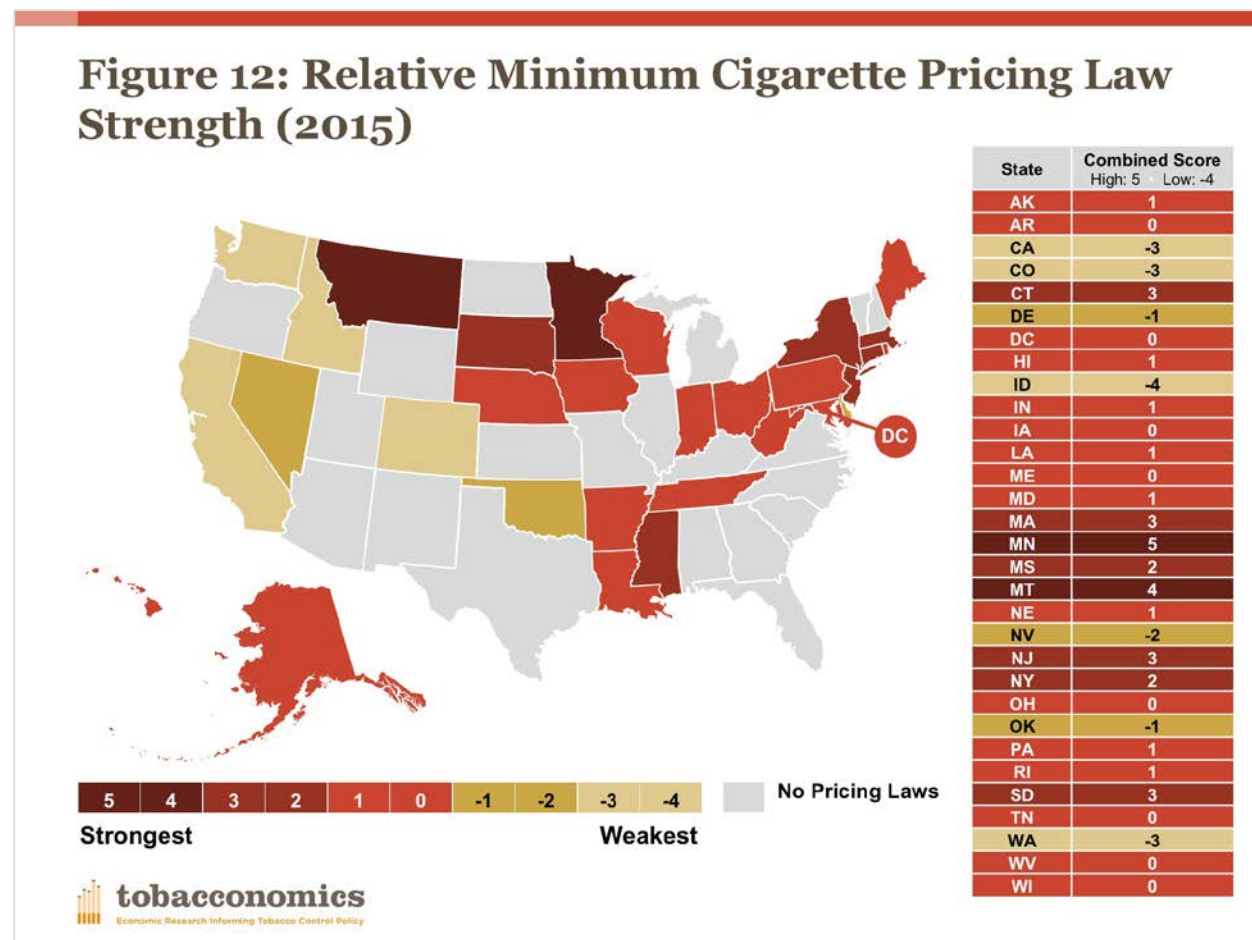
Restrictions on Competitor Price Matching

Of the 26 states that allow parties to match competitor pricing, 19 place at least one form of restriction on this practice. Common restrictions to price matching include: 1) a party's proximity to the competitor whose price it seeks to meet; 2) the requirement that the competitor be located within state boundaries; 3) the requirement that a competitor and price matching party provide the same article or service; and 4) the competitor whose price a party seeks to match is legal (i.e. "at cost" as defined by the state). Three states (Maine, Pennsylvania, and Wisconsin) place "other" restrictions on competitor price matching, including requirements that 1) the competitor itself be "legal" (presumably a licensed party) with no mention of a legal price; 2) the competitor has department approval to sell at a price below state presumptive levels; 3) the competitor's price is current; and 4) the competitor's sale terms and conditions are the same as the party who seeks to price-match.

Of the 26 price matching states, 23 require a vendor's price to be legal in order to be matched by a competitor (i.e., the vendor has submitted evidence that its actual costs are lower than the presumptive cost applied by the state in the form of a markup), and 23 require that the competitors' products or services mirror those of the vendor whose price they seek to match (See Figure 11). Seven states place a geographic restriction on price matching, with four requiring generally proximity, and three requiring that the competitor be within state boundaries to eliminate the potential for cross-border price matching. The highest number of restrictions any state placed on price matching was three.

National Evaluation

While the individual components of a state's pricing scheme each play a role in determining the ultimate sales price, how these factors work together (or against each other) is equally, if not more, important. The interplay between identified increase and decrease factors is an important one, as the presence of decrease factors can tend to impact the intended strength of a state's tobacco product pricing laws and result in costs lower than the intended presumptive minimums (See Figure 12).



In examining the states' policies, it becomes clear that the increase factors which appear to have the strongest impact on pricing (i.e., statutory markup) can be weakened through the presence of decrease factors: the more decrease factors that are present, the less impact the statutory markup will have. Perhaps unsurprisingly, states that employ minimum pricing schemes (Colorado, Idaho, Nevada, and Washington) seem to have weaker pricing regulations compared with those that employ minimum markup schemes. However, minimum markup states' laws can also be weakened by the presence of decrease factors (e.g., California or Oklahoma) (See Table 11).

Table 11: How States Utilize Regulatory Mechanisms That Increase and Decrease Base Cost of Cigarettes (2015)

Factors That Increase Price:

1. # of Parties Regulated
2. Markup*
3. Cartage
4. Taxes
5. Other Fees

* All factors were scored using a dichotomous scale except for "Markup," which was scored using an ordinal grouping based on continuous scale:

Markup Rate Scale	
No Markup	0
Markup > 0-6%	1
Markup > 6-12%	2
Markup > 12-18%	3
Markup > 18-24%	4
Markup > 24%	5

Factors That Decrease Price:

1. Below-Cost Coupons Allowed
2. Consumers Can Receive Below-Cost Coupons
3. Combination Sales Below Cost Allowed
4. Restrictions on Below-Cost Combination Sales
5. Trade Discounts Used to Reduce Base Price
6. Trade Discount Defined to Include Discount Programs
7. Competitor Price-Matching Allowed
8. Restrictions on Competitor Price-Matching



Regulatory Strength: Factors That Increase and Decrease Base Cost of Cigarettes By State

Increase Max Score: 9		Decrease Max Score: 8	
4	AK	3	
4	AR	4	
2	CA	5	
1	CO	4	
7	CT	4	
3	DE	4	
4	DC	4	
4	HI	3	
0	ID	4	
6	IN	5	
5	IA	5	
6	LA	5	
5	ME	5	
6	MD	5	
8	MA	5	
7	MN	2	
5	MS	3	
6	MT	2	
6	NE	5	
1	NV	3	
6	NJ	3	
5	NY	3	
5	OH	5	
5	OK	6	
5	PA	4	
6	RI	5	
6	SD	3	
4	TN	4	
1	WA	4	
5	WV	5	
6	WI	6	

Some states with the most increase factors still net a less impactful result when factoring in their decrease factors. Mechanisms such as couponing and trade discount application to presumptive cost, which are two of the more pervasive decrease factors, can have a strong impact on the ultimate consumer price on both ends of the distribution chain. While trade discounts reduce the legal state minimum price, couponing reduces that price even further for the ultimate consumer at the counter. Similarly, where parties have the ability to meet competitor pricing, and where competitors can prove a lower cost of doing business than the state minimum, states can inadvertently undermine their fair pricing effort, and see distributors moving to meet the lower prices of those around them.

In breaking out the increase and decrease factors on separate scales for the 31 states that regulate cigarette prices, the nuances in these pricing schemes can be more easily determined (See Table 12).

Table 12: Distribution of Increase and Decrease Factors Compared to National Average (2015) (N=31)




Increase Factors	# of States (N=31)	Decrease Factors	# of States (N=31)
Avg # of Increase Factors	3.3	Avg # of Decrease Factors	4.4
# States Below Average	5	# States Below Average	12
# States At Average	8	# States At Average	3
# States Above Average	18	# States Above Average	16

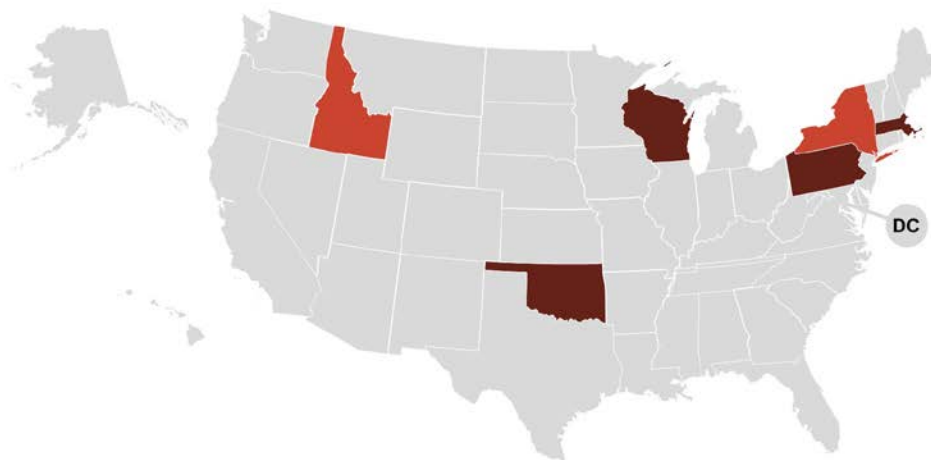
Minimum price states score an average of 4.3 out of 9 possible points on the increase table, with the majority of states (26) falling at or above that. These same states score an average of 4.4 out of 8 possible points on the decrease table, with the majority of states (19) falling at or above that.

OTP Pricing and Components

While the majority of the focus in this chartbook is on the minimum prices of cigarettes, some states do utilize pricing schemes for OTP as well. Of the 31 pricing states, seven apply minimum pricing schemes to some form of OTP. While five of those states utilize the same pricing scheme as used for cigarettes, two of those states (New York and Rhode Island) use minimum markup laws for cigarette, and minimum pricing laws for OTP. In total, four states use a minimum markup formula for OTP, while three apply a minimum pricing formula (See Figure 13).

Figure 13: U.S. Minimum OTP Pricing Scheme Types (2015)

-  **Minimum Markup:** Parties must add a statutory markup (percentage) to the base cost of OTP, which represents an assumed cost of doing business. [4 States]
-  **Minimum Pricing:** Parties are prohibited from selling OTP below that party's respective cost. No statutory markup (percentage) is applied. [3 States]
-  No minimum pricing laws [24 States]



This chartbook looked for 15 specific categories of OTP within a state's minimum pricing scheme: tobacco products, cigars, little cigars, Roll-Your-Own-Tobacco (RYOT), pipe tobacco, chewing tobacco, cigarillos, moist snuff, dry snuff, snus/smokeless, dissolvables, e-cigarettes, bidis, cloves/kreteks, or other. Five states regulated the price of cigars and general "tobacco products," with dry and moist snuff, and chewing tobacco regulated by four states each (See Figure 14). No states apply minimum pricing schemes to RYOT, cigarillos, dissolvables, e-cigarettes, or cloves/kreteks.

All seven OTP states specified the types of products to which their pricing schemes applied, ranging from one to seven listed products (See Table 13). (*Note: Application of "Other" counted as one product, regardless of how many products were specified within that category.*) While the majority of the states applied their pricing laws to multiple tobacco products, Massachusetts and Pennsylvania only applied their OTP pricing laws to little cigars.

Figure 14: Number of States Regulating the Minimum Price of OTPs by Type (2015)

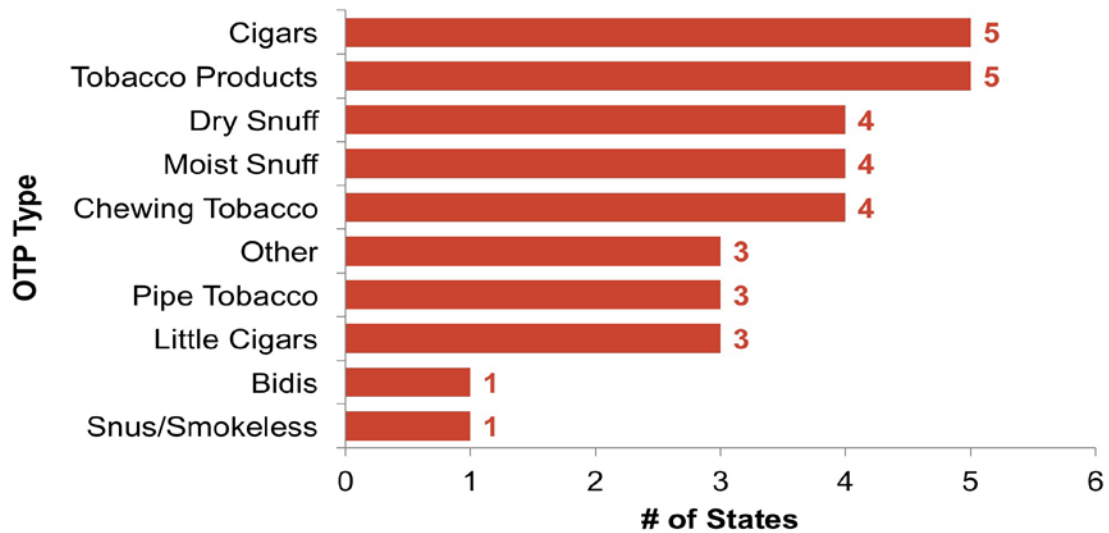


Table 13: Types of OTP Regulated by States With OTP Pricing Laws (2015)

State	"Tobacco Products" or "Tobacco"	Cigars	Little Cigars	Pipe Tobacco	Chewing Tobacco	Moist Snuff	Dry Snuff	Snus or Smokeless Tobacco	Bidis	Other	Totals
ID	✓	✓		✓		✓	✓	✓			6
MA			✓								1
NY	✓	✓	✓		✓	✓	✓			✓	7
OK	✓	✓		✓	✓				✓	✓	6
PA			✓								1
RI	✓	✓			✓	✓	✓				5
WI	✓	✓		✓	✓	✓	✓			✓	7

Other Descriptions: "tobacco intended for smoking" (NY); cheroots, stogies (OK); snuff flour, cavendish, plug and twist tobacco, cheroots, stogies, periques (WI)

Note: No states specifically regulate cigarillos, RYOT, dissolvables, e-cigarettes, or clove cigarettes/kreteks.

A Shift Towards Local Tobacco Product Pricing Regulation: New York City, NY, and Providence, RI

State minimum tobacco product pricing laws remained relatively unchanged from 2005 through 2015. As a result, these policies have not addressed the growing use of price-reducing marketing strategies by the tobacco industry. Pointing to consumption rates (both at the youth and adult levels) and the impact of price on tobacco consumption, some municipalities have introduced legislation to further address tobacco sales.

In January 2013, after several court challenges from tobacco manufacturers and others, the first city to enact augmented tobacco product pricing laws was Providence, Rhode Island.⁴⁵ Specifically, Providence's efforts sought to augment the state's existing minimum tobacco product pricing laws by addressing price-reducing coupons or vouchers and multi-pack discounts. Citing a higher youth tobacco consumption rate than other areas in the state and the price-sensitivity of youth smokers,⁴⁶ Providence's law bans the redemption (not dissemination) of coupons or discounting mechanisms that reduce cigarettes or any tobacco product below their listed, non-discounted price. In Rhode Island, that price includes a statutory markup. Additionally, the law bans any discounts for multi-pack sales of cigarettes or OTP.³⁵

Following Providence's lead, New York City introduced amendments to local tobacco product pricing laws in May of 2013, which went even further. New York City Council members, citing a desire to further reduce youth and adult tobacco consumption rates, sought to amend local laws to address coupons, multi-pack sales, minimum sales prices, as well as potential product substitution in the wake of increased tobacco product prices.⁴⁷ Much like Providence, New York City's Local Law 1021 banned the redemption of coupons or use of multi-pack sales that reduced the price of cigarettes or any OTP to less than listed, non-discounted prices. In addition to its discounting regulations, the law addressed price and quantity of cigarettes and some tobacco products, increasing the minimum consumer sales price of both cigarettes and little cigars to \$10.50/pack, and establishing minimum sales quantities of specific tobacco products often purchased as lower-cost cigarette substitutions. Specifically, the law establishes a minimum quantity of little cigars (no less than 20 per pack), and cigars (no less than 4 cigars sold at once, unless cigars were greater than \$3/each). Lastly, it reinforced the state's existing minimum pricing laws for both cigarettes and OTP, which require a sales price no less than statutory minimums.^{36,48} This law went into effect in June of 2014 after a protracted legal battle.

While the effects of these laws have yet to be studied, both cities address major concerns in the area of tobacco product pricing laws: the prevalence of discounting mechanisms that reduce price below cost; and the substitution of less-expensive OTP in the face of increased cigarette prices.

Note: At the time of publication, Chicago, IL, had also introduced local laws regulating coupon redemption, cigarette prices, and OTP prices (effective July 2016).⁴⁹ Chicago's new minimum OTP price laws are contingent on whether or not its OTP taxes are applicable under state law.⁵⁰

Section 4: Individual State Profiles

How to Read the State Profile Pages

1) **[Method of pricing]**

This indicates which type of pricing formula a state uses to establish minimum cigarette prices.

2) **[Figure 1: Cigarette PATH Chart]**

This chart illustrates the cigarette pricing formulas for each distributing party regulated by a given state, including which pricing elements are applied, and in what order. Detailed, annotated notes for each chart can be found [here](#).

3) **[OTP Pricing]**

The presence of this section indicates that a state regulates the minimum price of OTP.

4) **[OTP Pricing Scheme Matches?]**

This box indicates whether a state regulates OTP using the same pricing scheme as is used for cigarette price regulation.

5) **[Table 1: OTP Types Regulated]**

This table indicates which OTP are regulated by a state's minimum pricing laws. The column is checked where a state applies its pricing formula to the listed product.

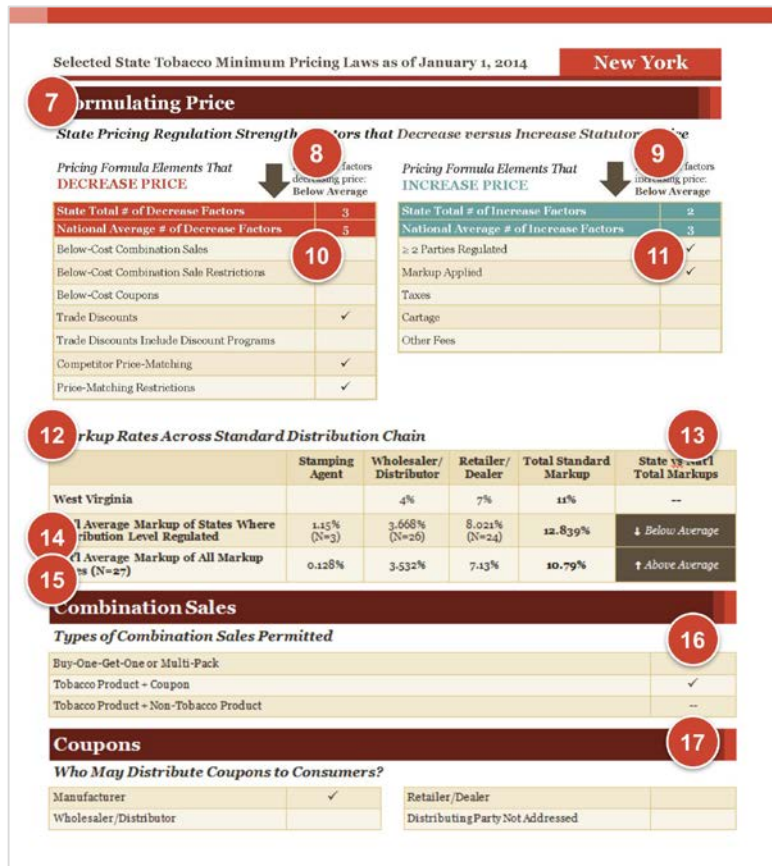
6) **[Figure 2: OTP PATH Chart]**

This chart only appears where the pricing scheme for OTP is different than the formula used for cigarettes. It illustrates the OTP pricing formulas for each distributing party regulated by a given state, including which pricing elements are applied, and in what order. Detailed, annotated notes for each chart can be found [here](#).



7) **[Formulating Price]**

This section illustrates which components are found in a state's pricing formula, and indicates the presence of factors that tend to increase or decrease the ultimate consumer price of cigarettes.



8) **[Number of Factors Decreasing Price]**

This section shows where a state falls in relation to the average number of decrease factors across all MPL states. The column indicates national average, and state total.

9) **[Number of factors that increase price]**

This section shows where a state falls in relation to the average number of increase factors across all MPL states. The column indicates national average, and state total.

10) **[Table 2 – Decrease Factors]**

This column is checked if the listed decrease factor is found in a state's pricing formula.

11) **[Table 3 – Increase Factors]**

This column is checked if the listed increase factor is found in a state's pricing formula.

12) **[Table 4: Markup Rates Across Standard Distribution Chain]**

This table shows the state's markup rates for the three vendors a cigarette most likely travels through in its movement through a standard distribution chain. These are simply percentages, and do not indicate the base price to which they are applied. The total standard markup is a basic sum of all applicable markups, and does not reflect compounding effects, nor the base costs to which these percentages are applied. The national average is the average for that given party among states that regulate that particular party.

13) **[Markup Above/Below Average]**

This indicates whether a state's total standard markup is above, below, or equal to the applicable national total standard markup average. States without applicable or comparable markups are marked with “--.”

14) **[National Average Markup of States Where Distribution Level Regulated]**

This row indicates the averages for each portion of a standard distribution chain. Averages are calculated using only those states who apply a markup to that particular distributing party (sample size is indicated for each distribution level). The Total Standard Markup for that row is the sum of those averages.

15) **[National Average Markup of All Markup States (N=27)]**

This row indicates the averages for each portion of a standard distribution chain. Averages are calculated across all states that apply any markup to any distributing party. The Total Standard Markup for that row is the sum of those averages (and the average of all total markups across all markup states).

16) **[Types of Combination Sales]**

If this column is checked, the state allows a particular combination sale type.

17) **[Who May Distribute Coupons?]**

If this column is checked, the listed party can distribute coupons to consumers.

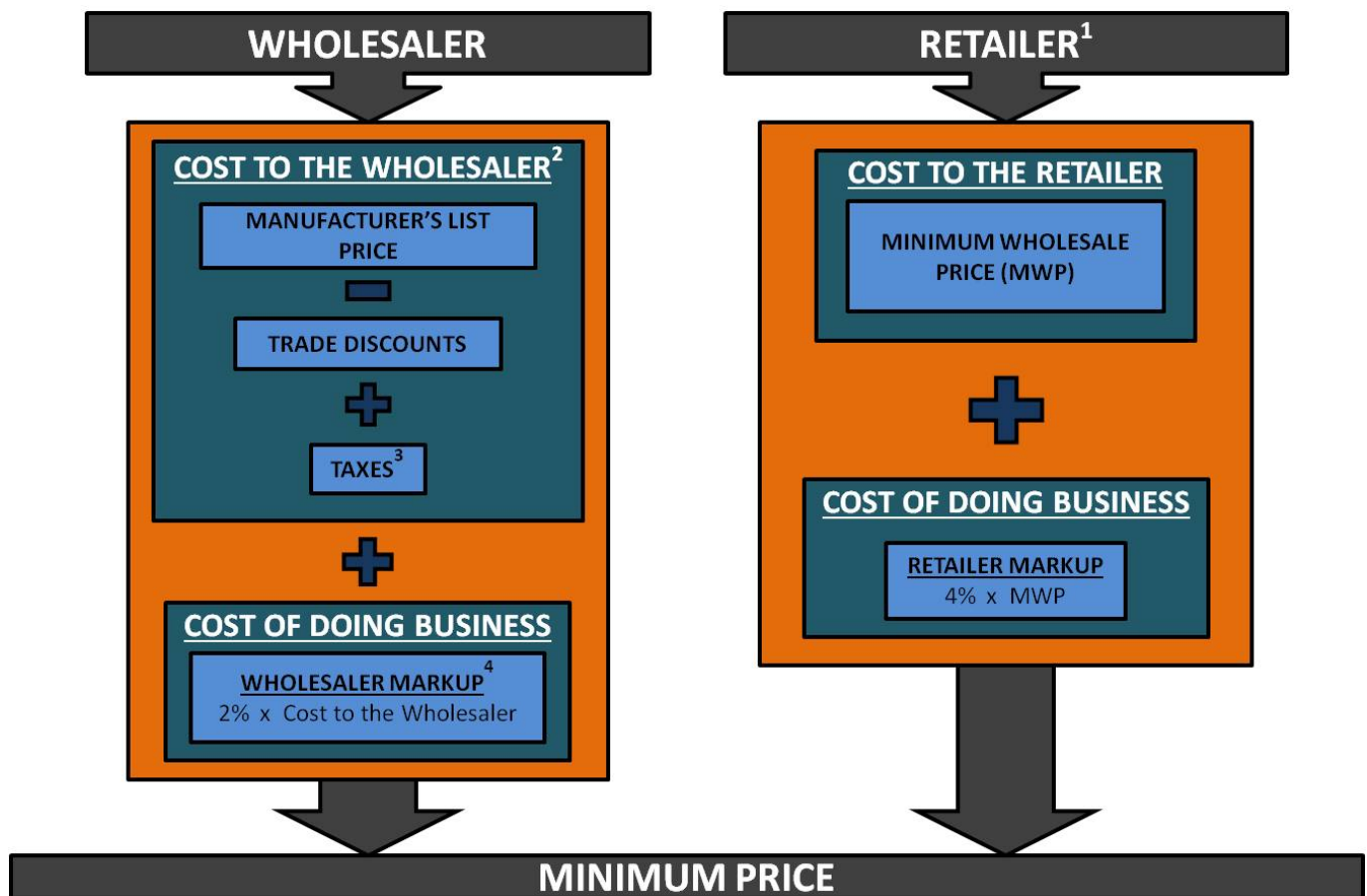
Alaska



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	1
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	

Total Increase Factors (State):	3
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Alaska		2%	4%	6%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↓ Below Average

Combination Sales

Types of Combination Sales Permitted

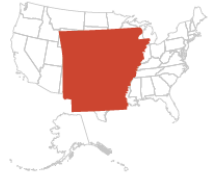
Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	--	Retailer/Dealer	--
Wholesaler/Distributor	--	Distributing Party Not Addressed	--

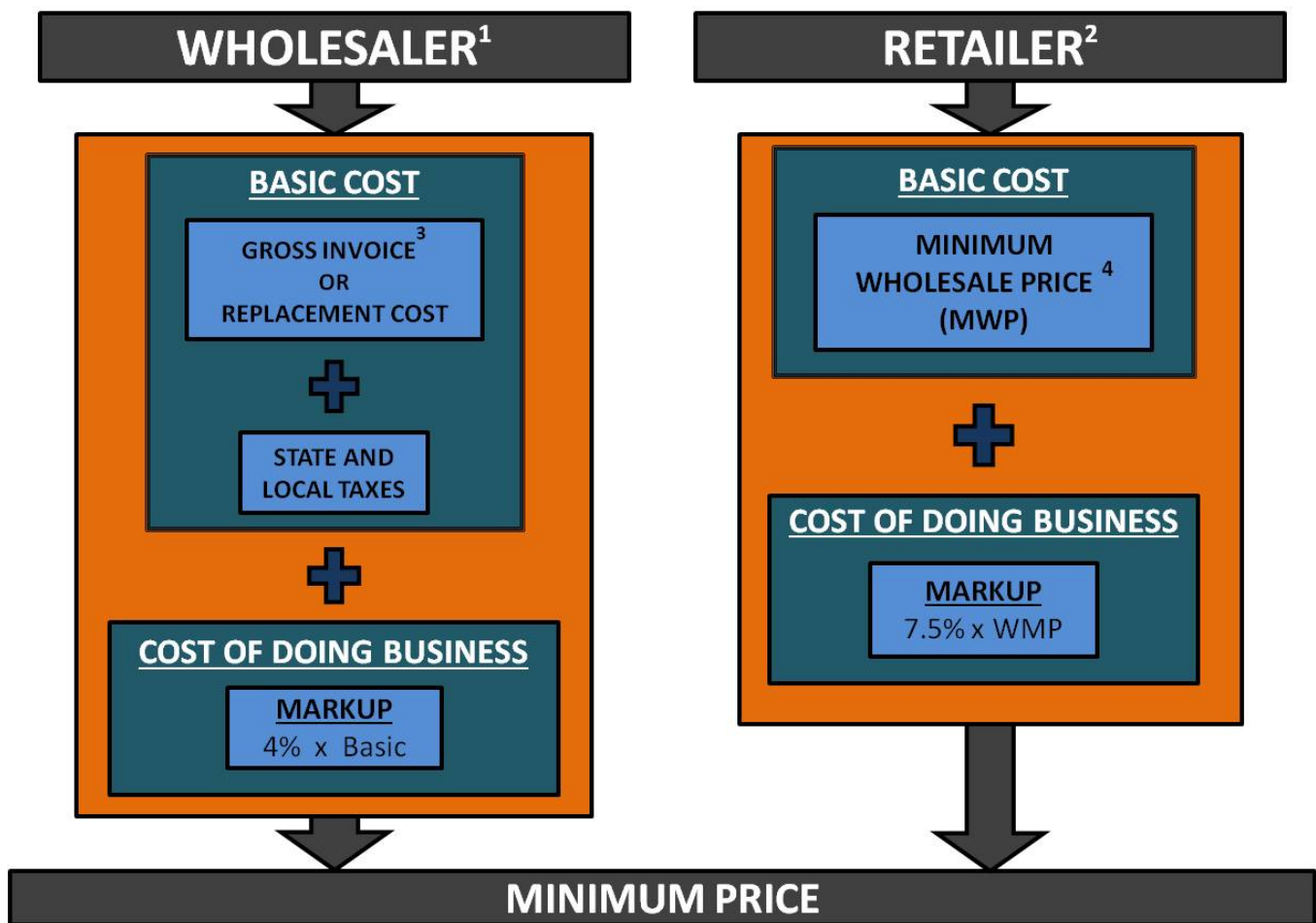
Arkansas



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That **DECREASE PRICE**



Number of factors decreasing price: **Above Average**

Pricing Formula Elements That **INCREASE PRICE**



Number of factors increasing price: **Below Average**

Total Decrease Factors (State):	4
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	✓
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	3
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Arkansas		4%	7.5%	11.5%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↓ <i>Below Average</i>
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↑ <i>Above Average</i>

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	✓
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	✓
Wholesaler/Distributor	

Retailer/Dealer	
Distributing Party Not Addressed	

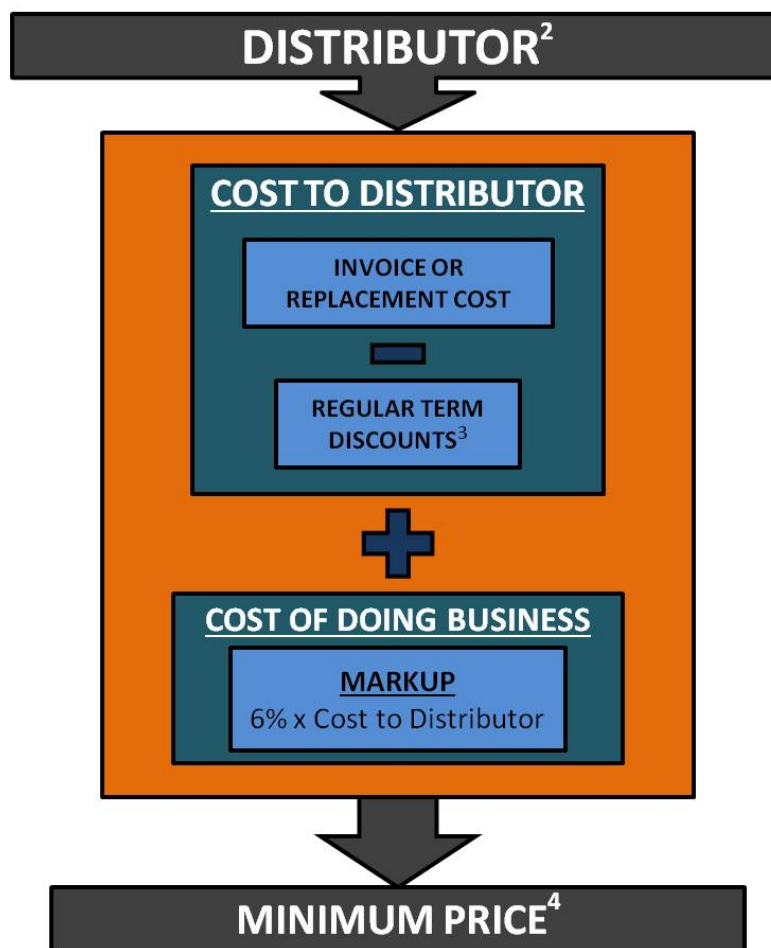
California



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing¹ – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	4
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	1
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	
Markup Applied	✓
Taxes	
Cartage	
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
California		6%		6%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↓ <i>Below Average</i>
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↓ <i>Below Average</i>

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	--
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	--

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer		Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	✓

Colorado

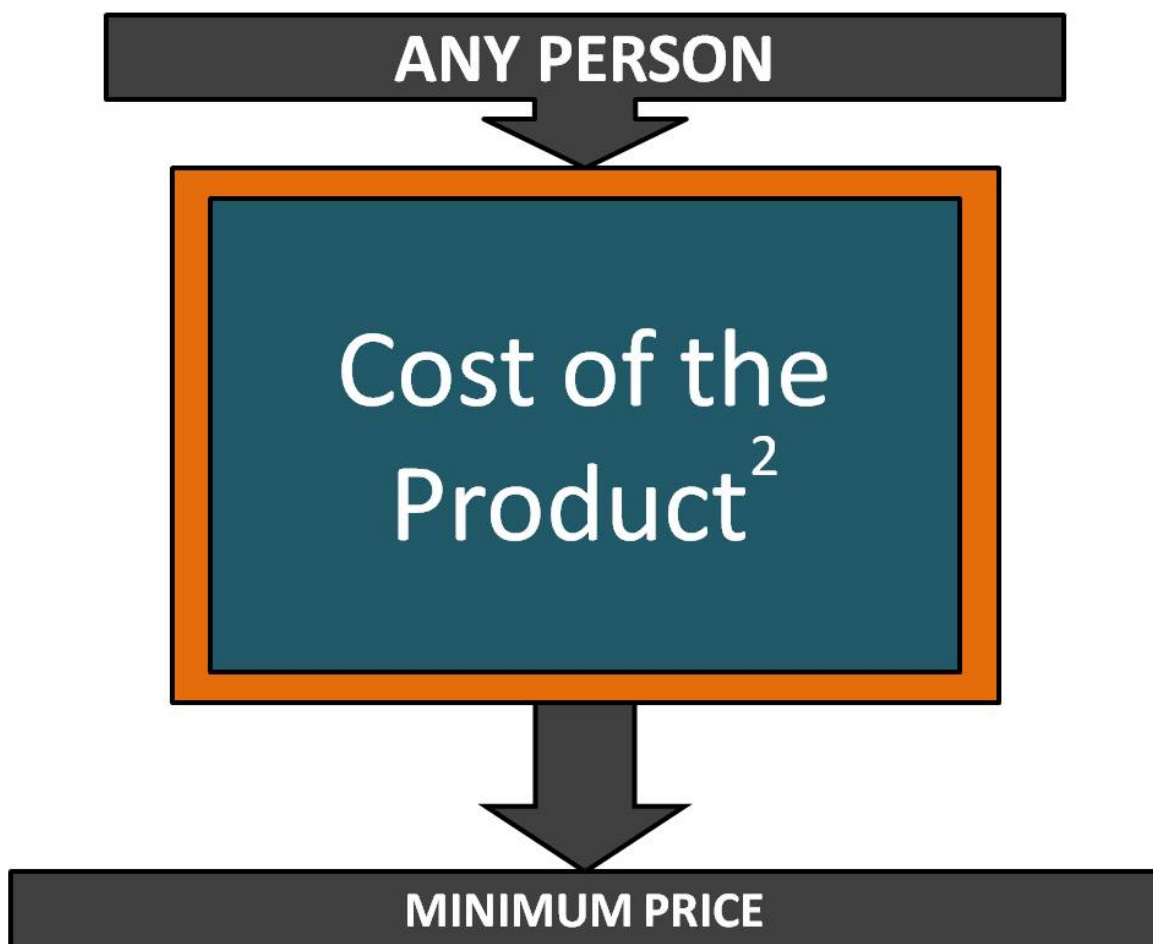


Minimum Markup

Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing¹ – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	3
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	1
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	
Taxes	
Cartage	
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Colorado	--	--	--	--	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	--
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	--

Combination Sales

Types of Combination Sales Permitted

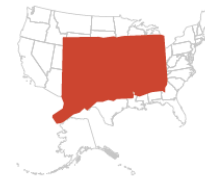
Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer		Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	✓

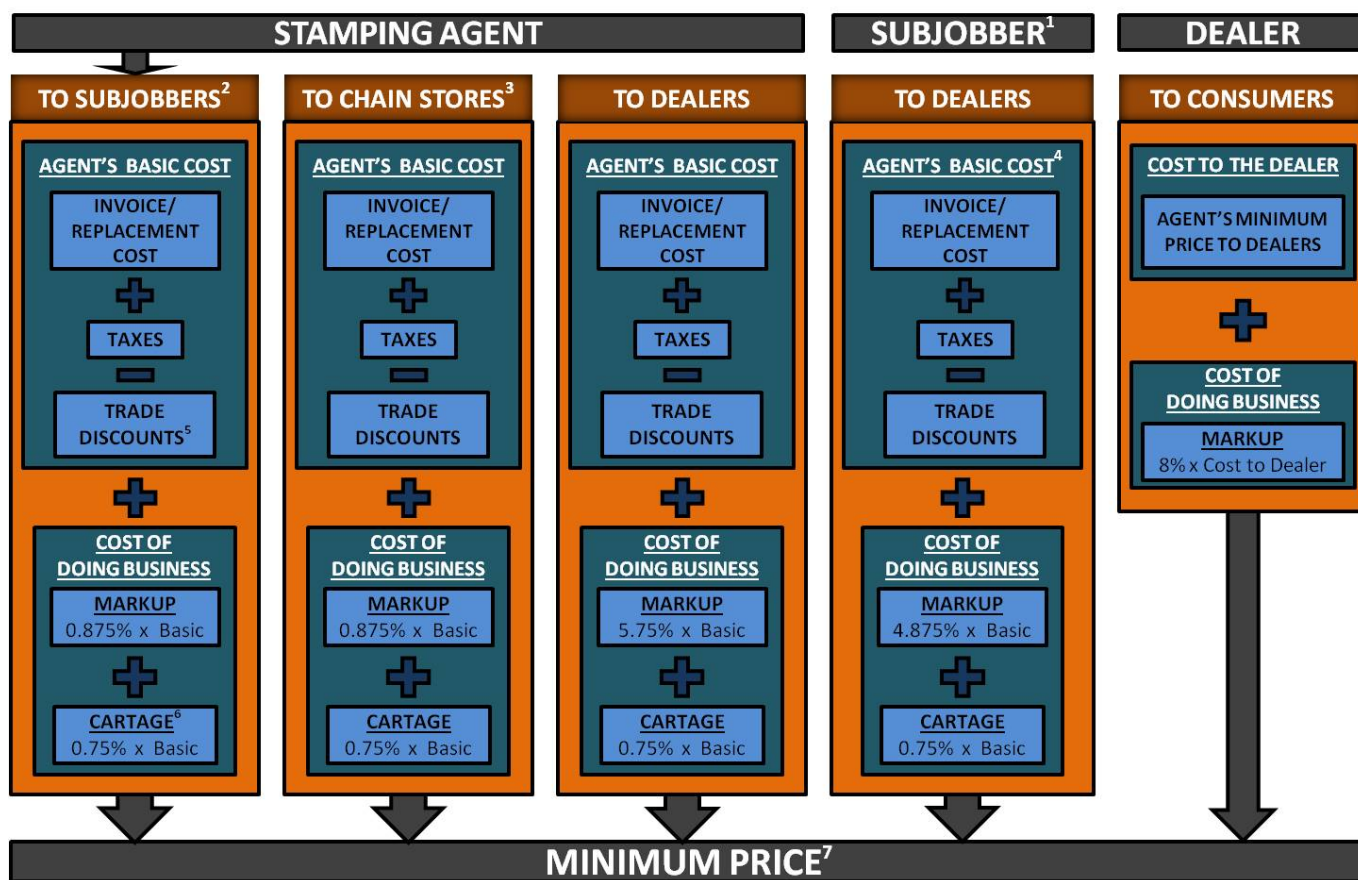
Connecticut



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	4
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	✓
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Connecticut	0.875%	4.875%	8%	13.75%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↑ Above Average
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	✓
Tobacco Product + Coupon	✓
Tobacco Product + Non-Tobacco Product	✓

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer		Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	✓

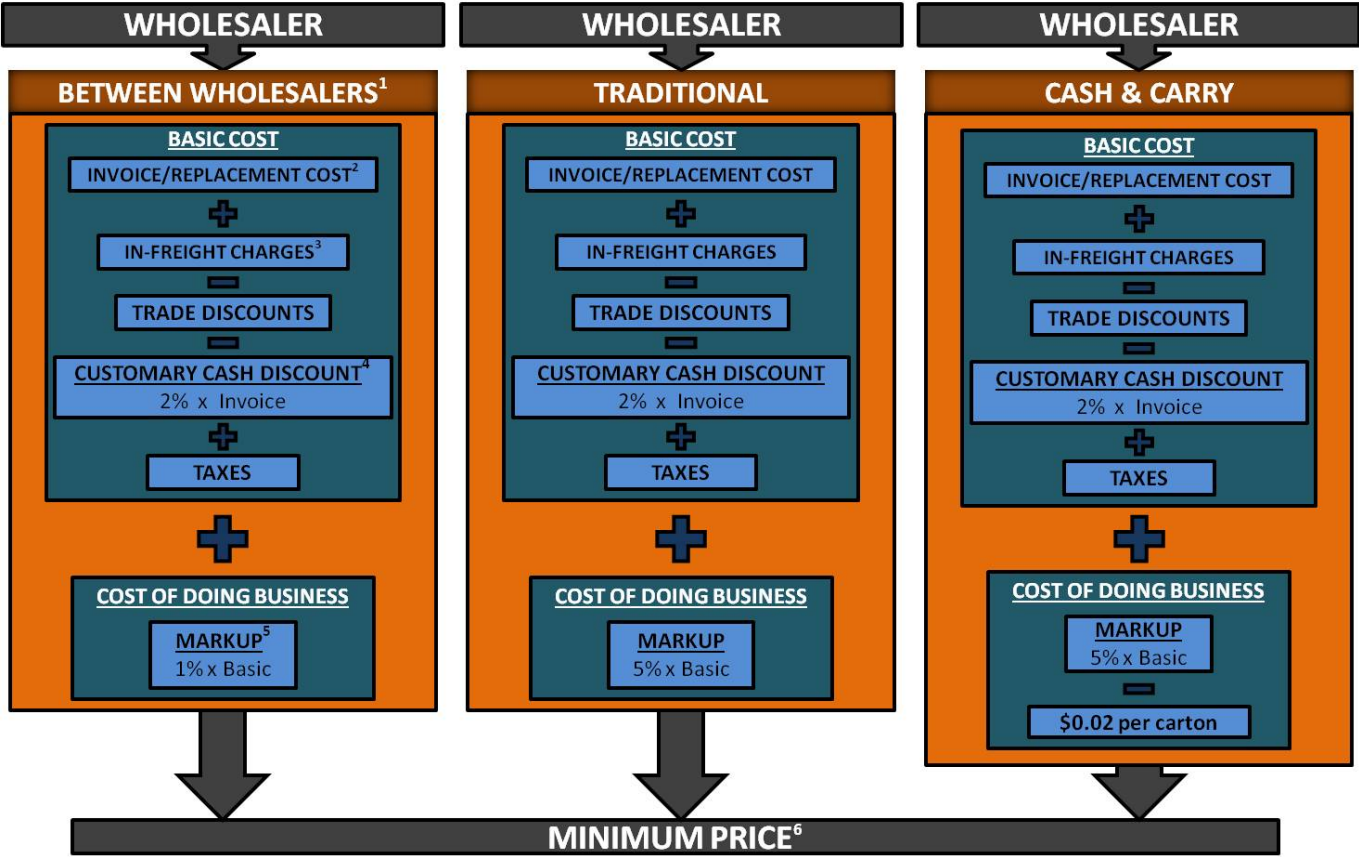
Delaware



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	4
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	✓
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	3
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Delaware		5%		5%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↓ Below Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	✓
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer		Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	✓

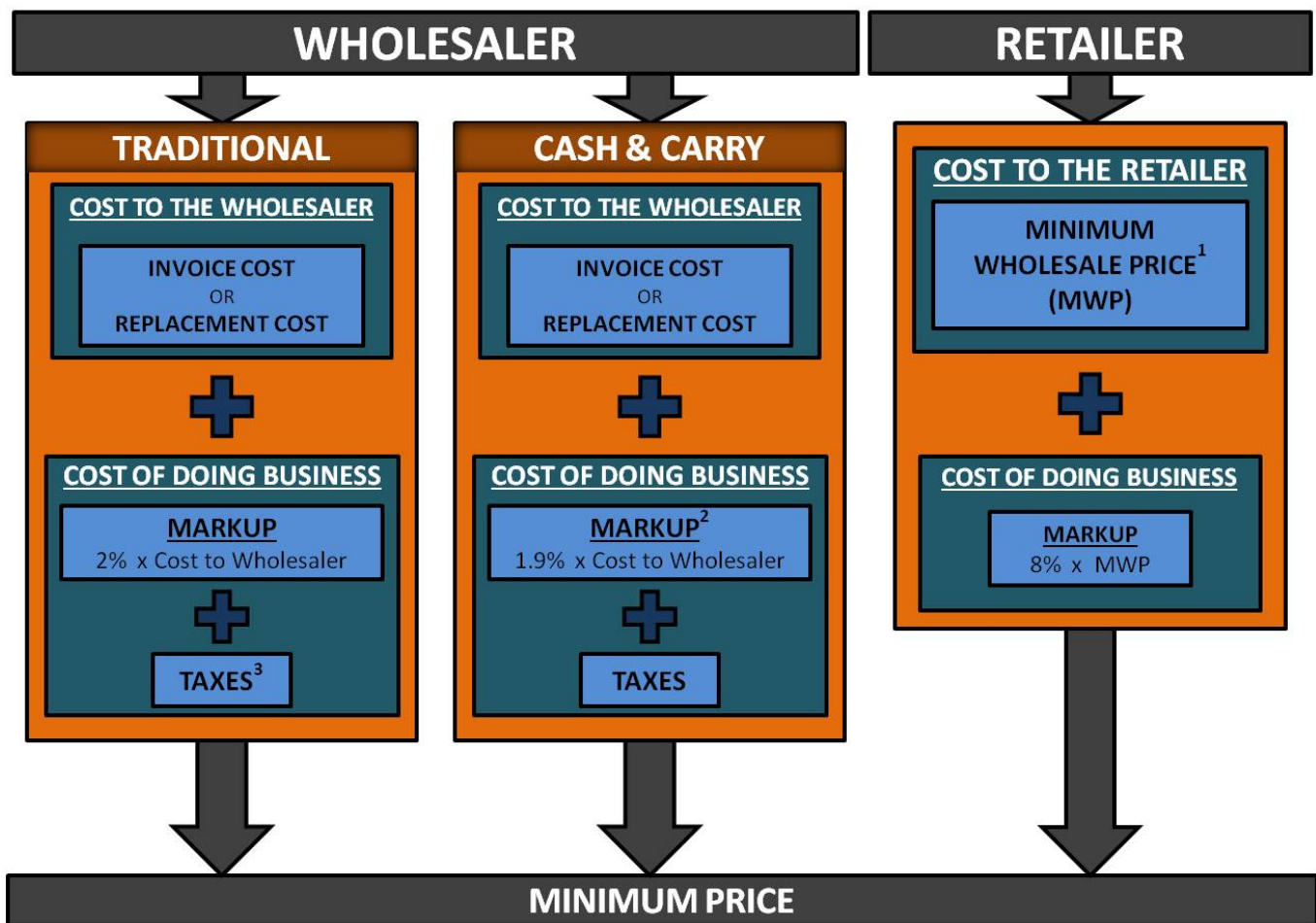
District of Columbia



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	3
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	3
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
District of Columbia		2%	8%	10%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↓ Below Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	--
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	--

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	
Wholesaler/Distributor	

Retailer/Dealer	
Distributing Party Not Addressed	✓

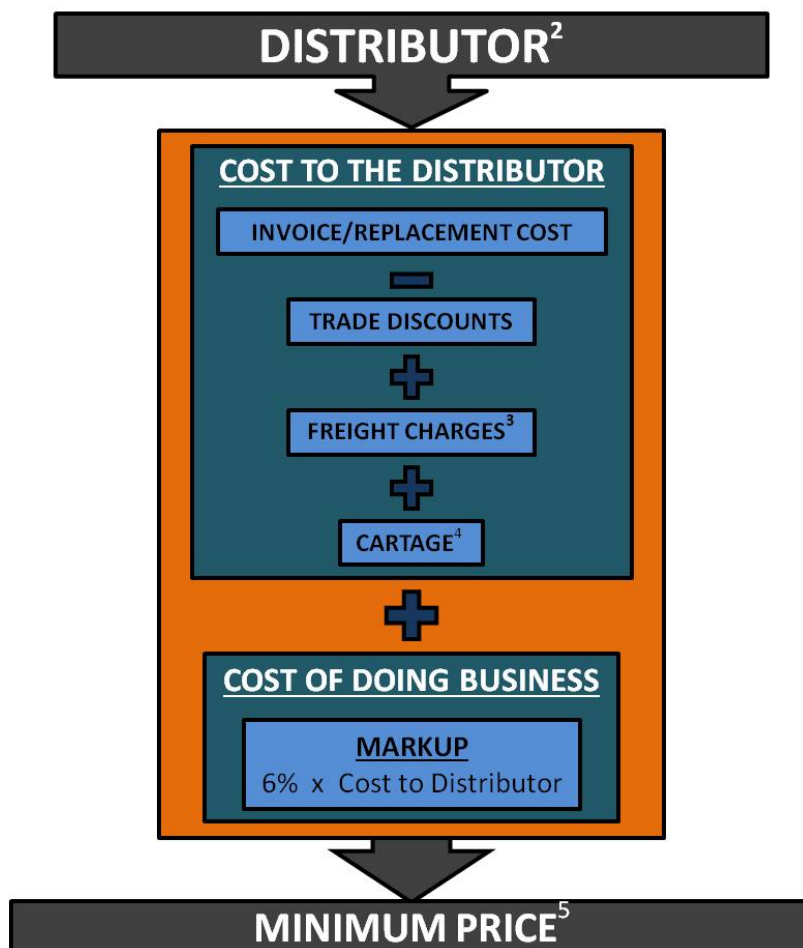
Hawaii



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing¹ – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	2
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	3
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	
Markup Applied	✓
Taxes	
Cartage	✓
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Hawaii		6%		6%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↓ <i>Below Average</i>
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↓ <i>Below Average</i>

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	--
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	--

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	--	Retailer/Dealer	--
Wholesaler/Distributor	--	Distributing Party Not Addressed	--

Idaho



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing¹ – 2015



OTP Pricing – 2015

State OTP pricing scheme matches Cigarette Pricing? Yes No

Types of OTP Regulated

Tobacco Products	✓	Moist Snuff	✓
Cigars	✓	Dry Snuff	✓
Little Cigars		Snus/Smokeless	✓
Pipe Tobacco	✓	Bidis	
Chewing Tobacco		Other	
Total Products		6	

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	2
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	

Total Increase Factors (State):	0
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	
Markup Applied	
Taxes	
Cartage	
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Idaho	--	--	--	--	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	--
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	--

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	--
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	--

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer		Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	✓

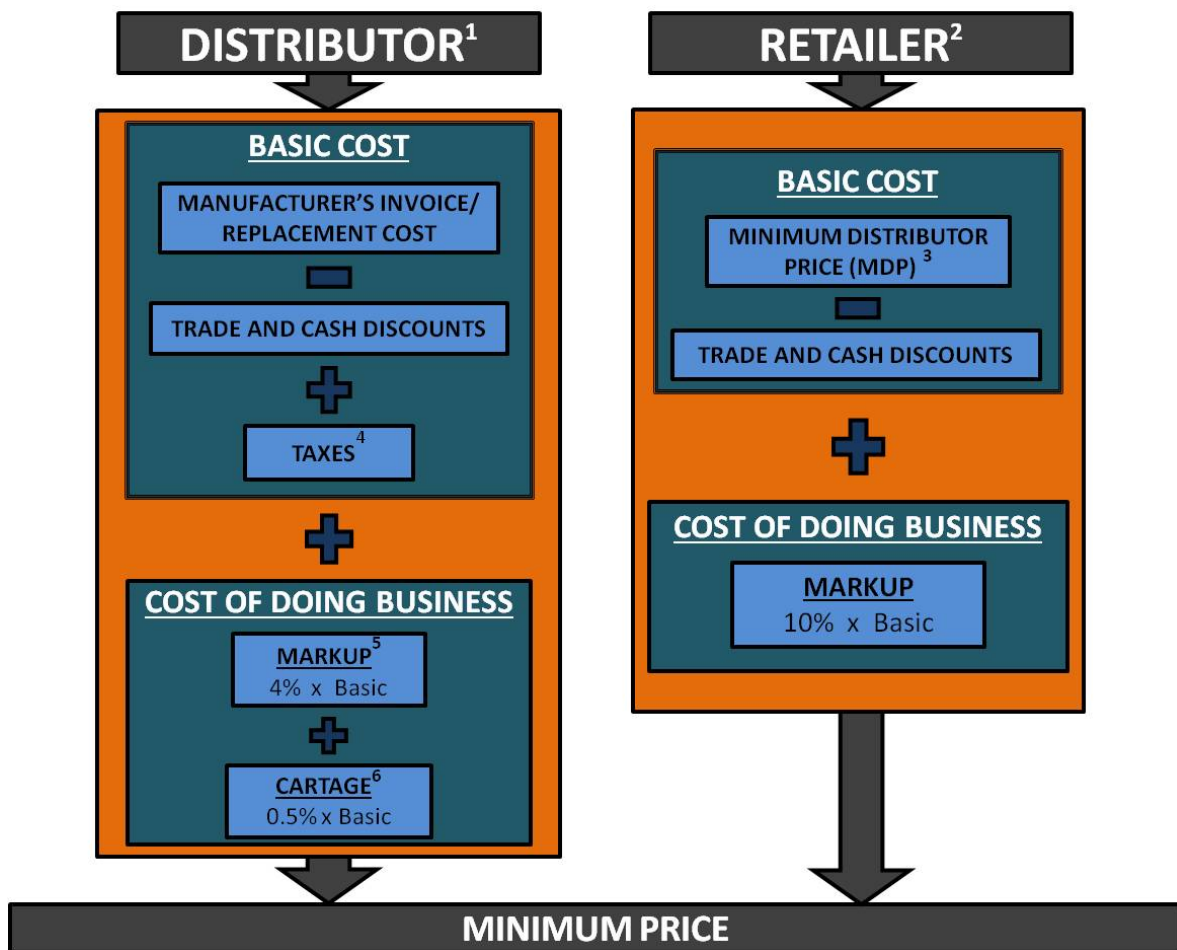
Indiana



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That **DECREASE PRICE**  Number of factors decreasing price: **Above Average**

Pricing Formula Elements That **INCREASE PRICE**  Number of factors increasing price: **Above Average**

Total Decrease Factors (State):	4
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Indiana		4%	10%	14%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↑ Above Average
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	
Wholesaler/Distributor	

Retailer/Dealer	
Distributing Party Not Addressed	✓

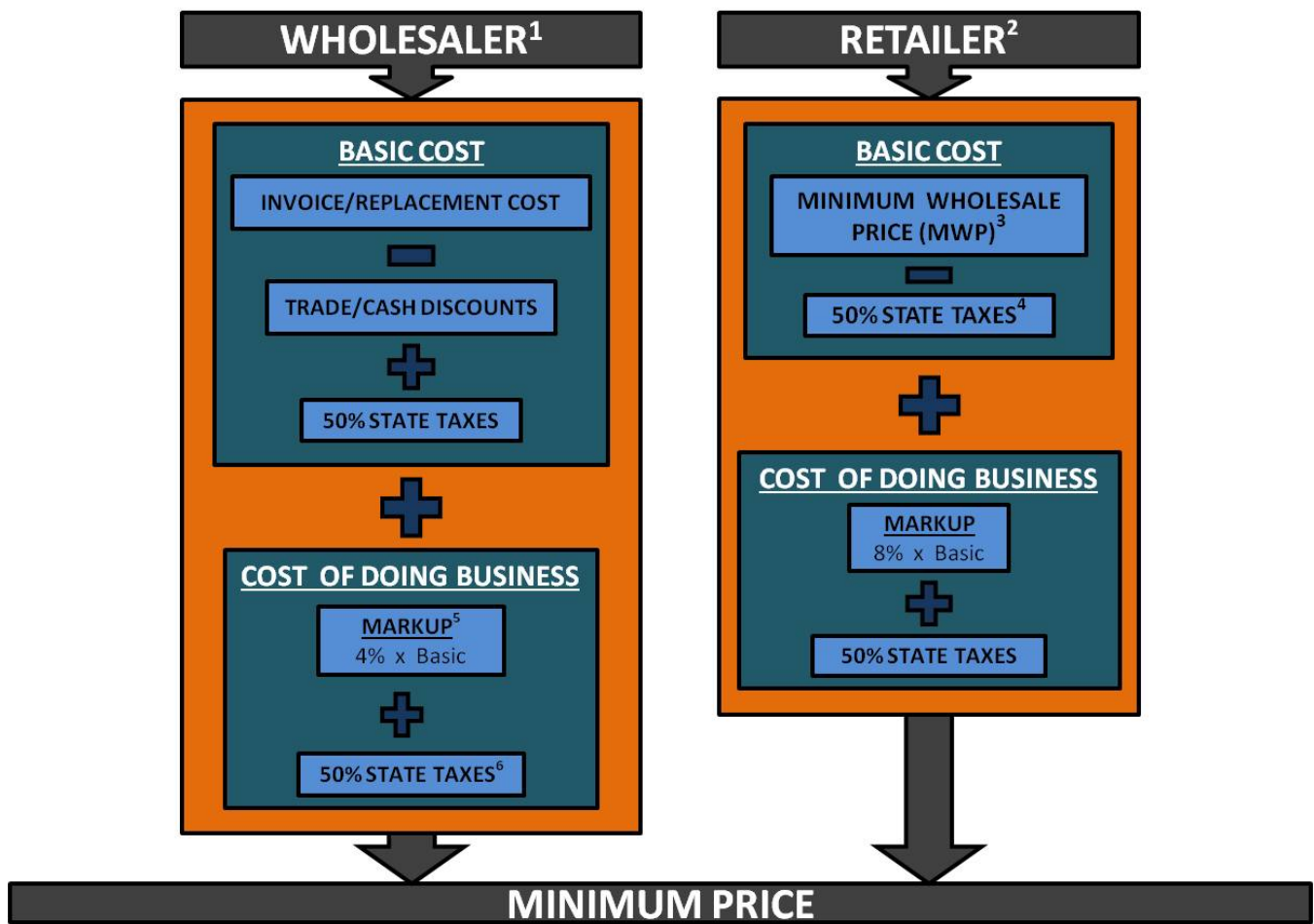
Iowa



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	5
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	✓
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	3
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Iowa		4%	8%	12%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	✓
Tobacco Product + Coupon	✓
Tobacco Product + Non-Tobacco Product	✓

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	✓
Wholesaler/Distributor	

Retailer/Dealer	
Distributing Party Not Addressed	

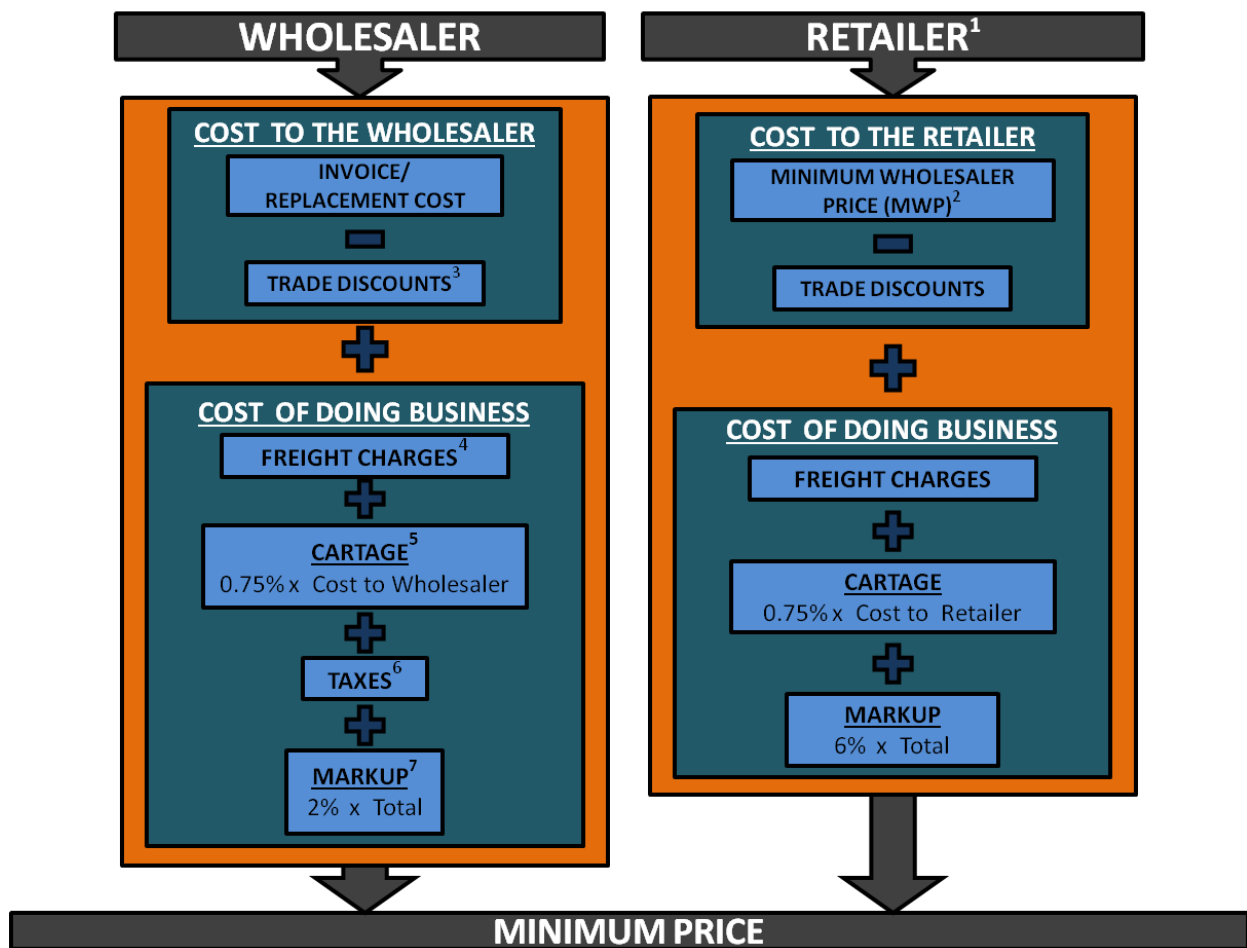
Louisiana



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	4
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	5
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Louisiana		2%	6%	8%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↓ <i>Below Average</i>
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↓ <i>Below Average</i>

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer		Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	✓

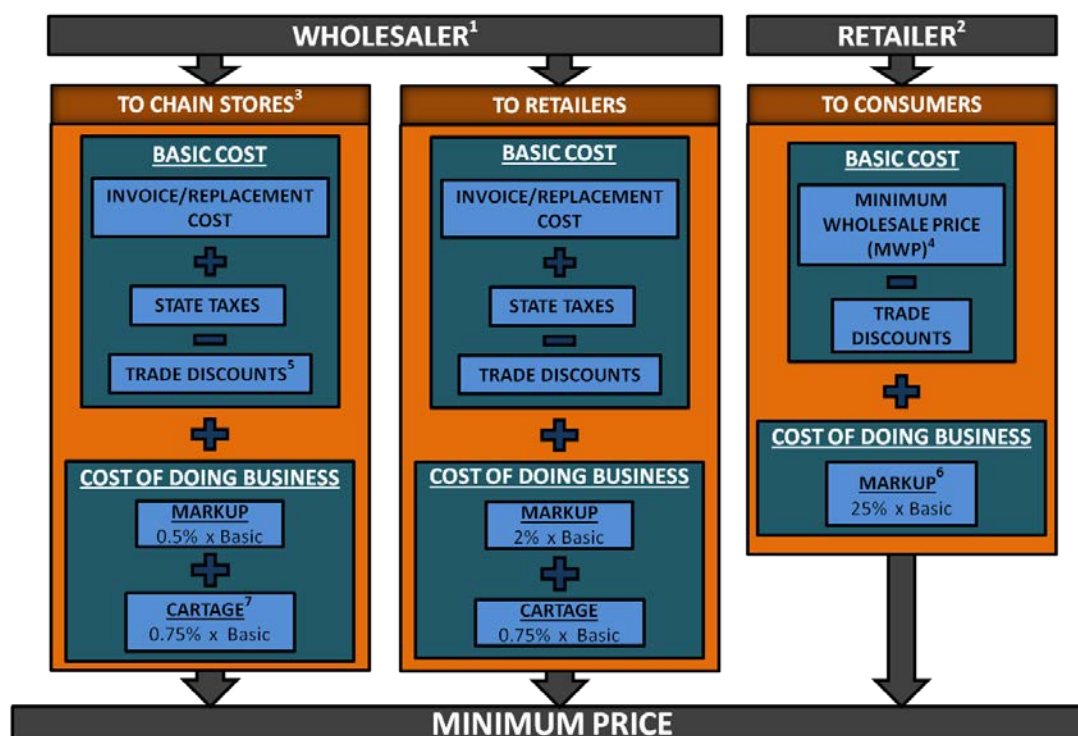
Massachusetts



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



OTP Pricing – 2015

State OTP pricing scheme matches Cigarette Pricing? Yes No

Types of OTP Regulated

Tobacco Products		Moist Snuff	
Cigars		Dry Snuff	
Little Cigars	✓	Snus/Smokeless	
Pipe Tobacco		Bidis	
Chewing Tobacco		Other	

Total Products 1

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	4
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Massachusetts		2%	25%	27%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↑ Above Average
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	
Wholesaler/Distributor	

Retailer/Dealer	
Distributing Party Not Addressed	✓

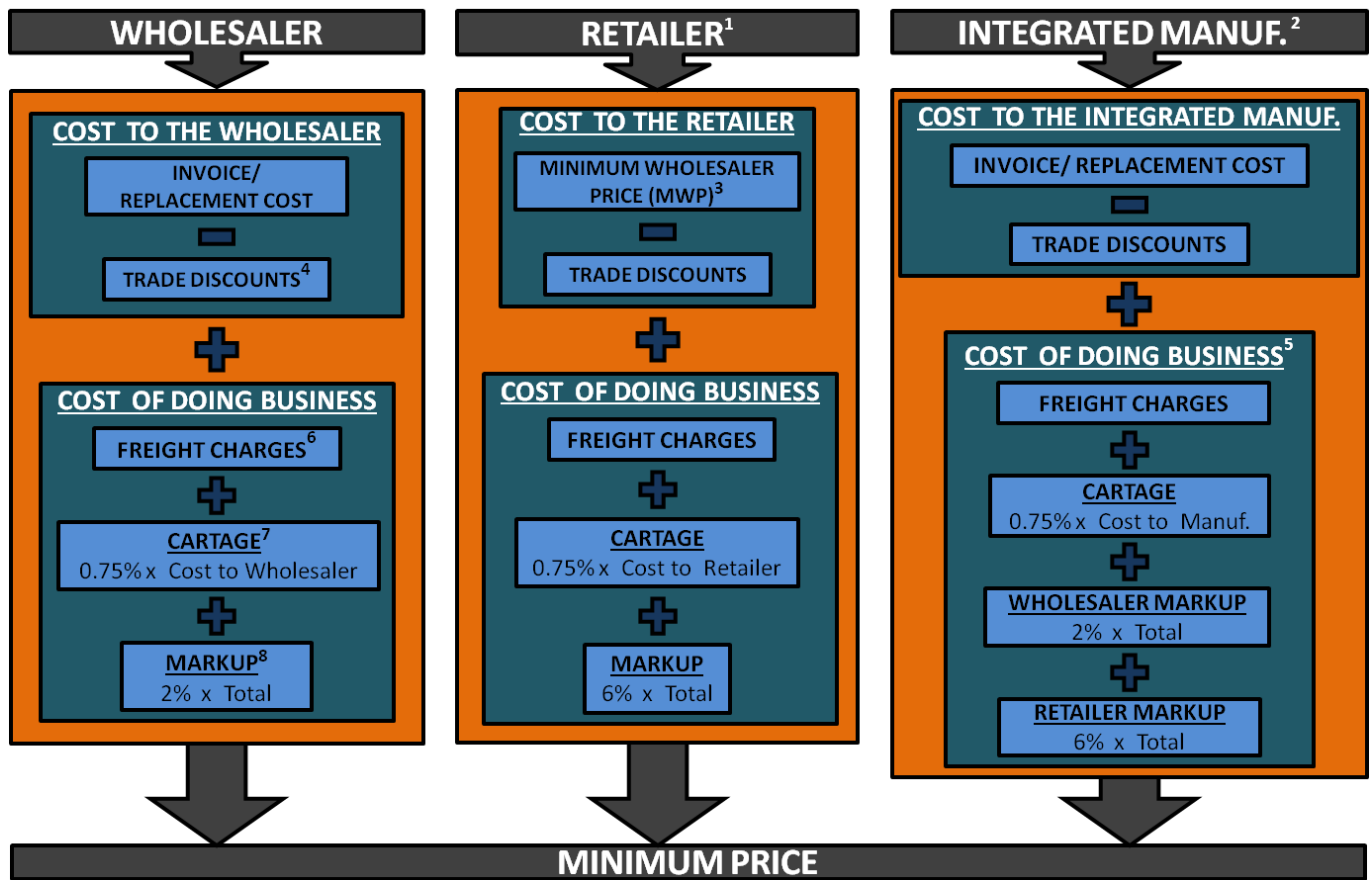
Maine



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	4
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	
Cartage	✓
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Maine		2%	6%	8%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↓ <i>Below Average</i>
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↓ <i>Below Average</i>

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer		Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	✓

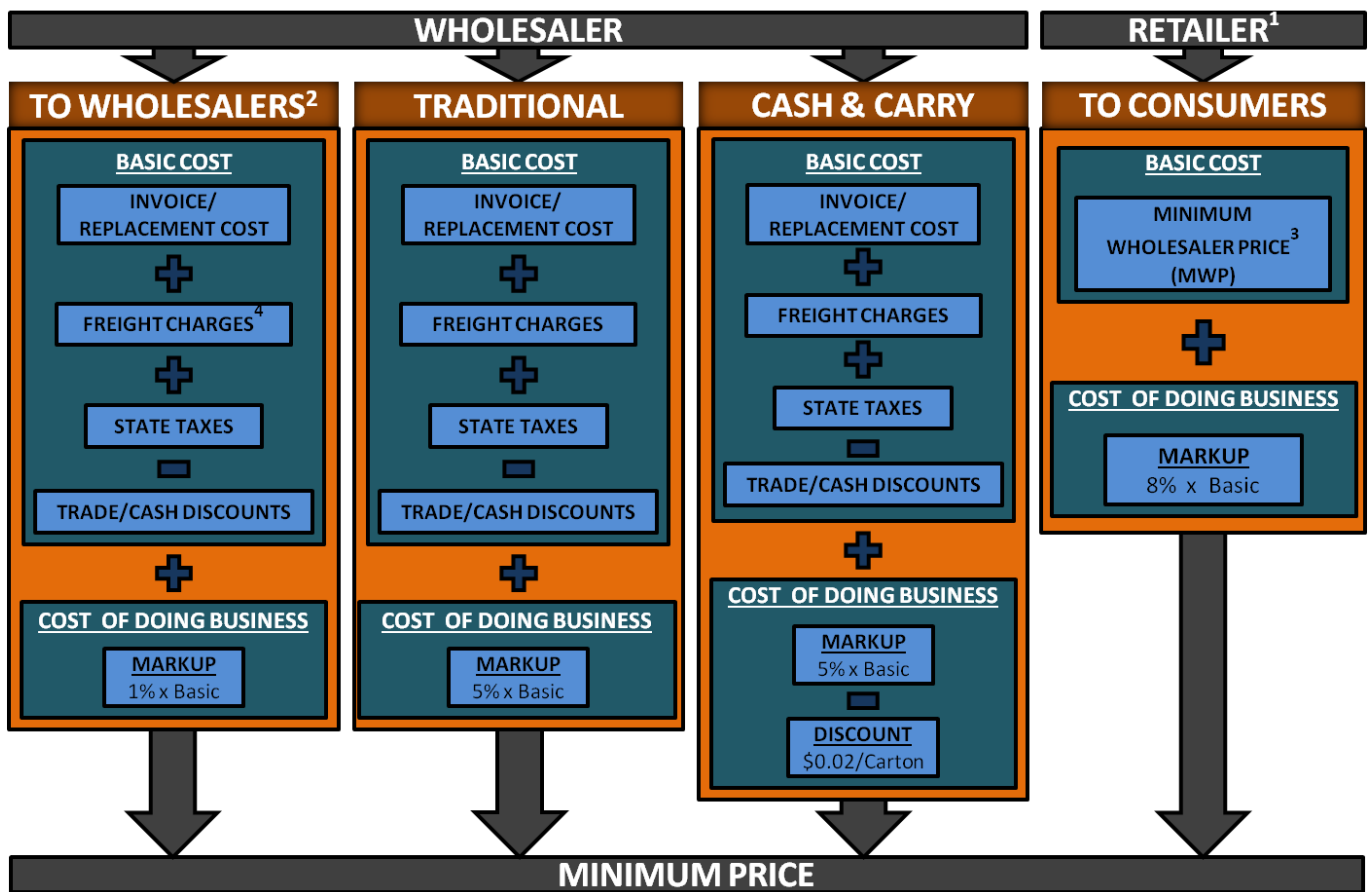
Maryland



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors
decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors
increasing price:
Above Average

Total Decrease Factors (State):	5
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	✓
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Maryland		5%	8%	13%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↑ Above Average
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	✓
Tobacco Product + Coupon	✓
Tobacco Product + Non-Tobacco Product	✓

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	✓	Retailer/Dealer	✓
Wholesaler/Distributor	✓	Distributing Party Not Addressed	

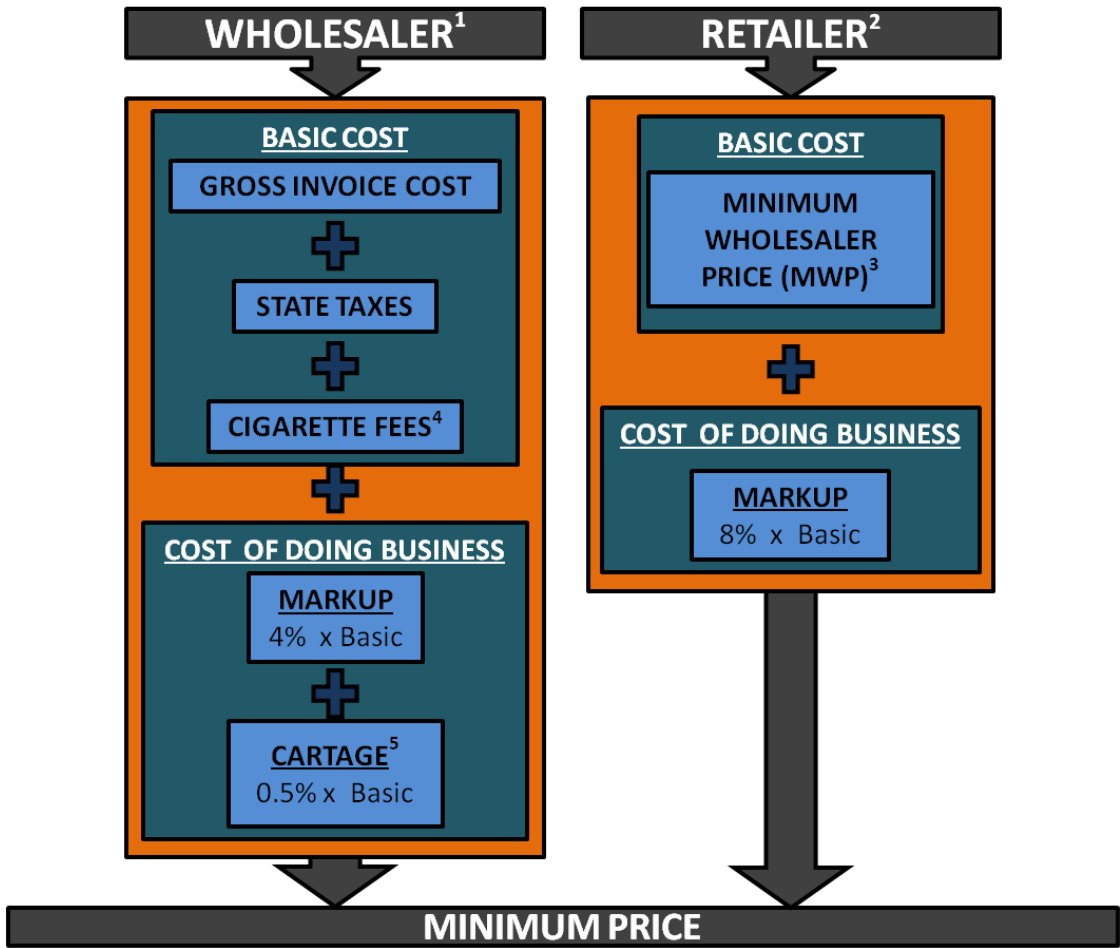
Minnesota



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	1
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	5
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Minnesota		4%	8%	12%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.668% (N=26)	8.021% (N=24)	12.839%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.128%	3.532%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	--	Retailer/Dealer	--
Wholesaler/Distributor	--	Distributing Party Not Addressed	--

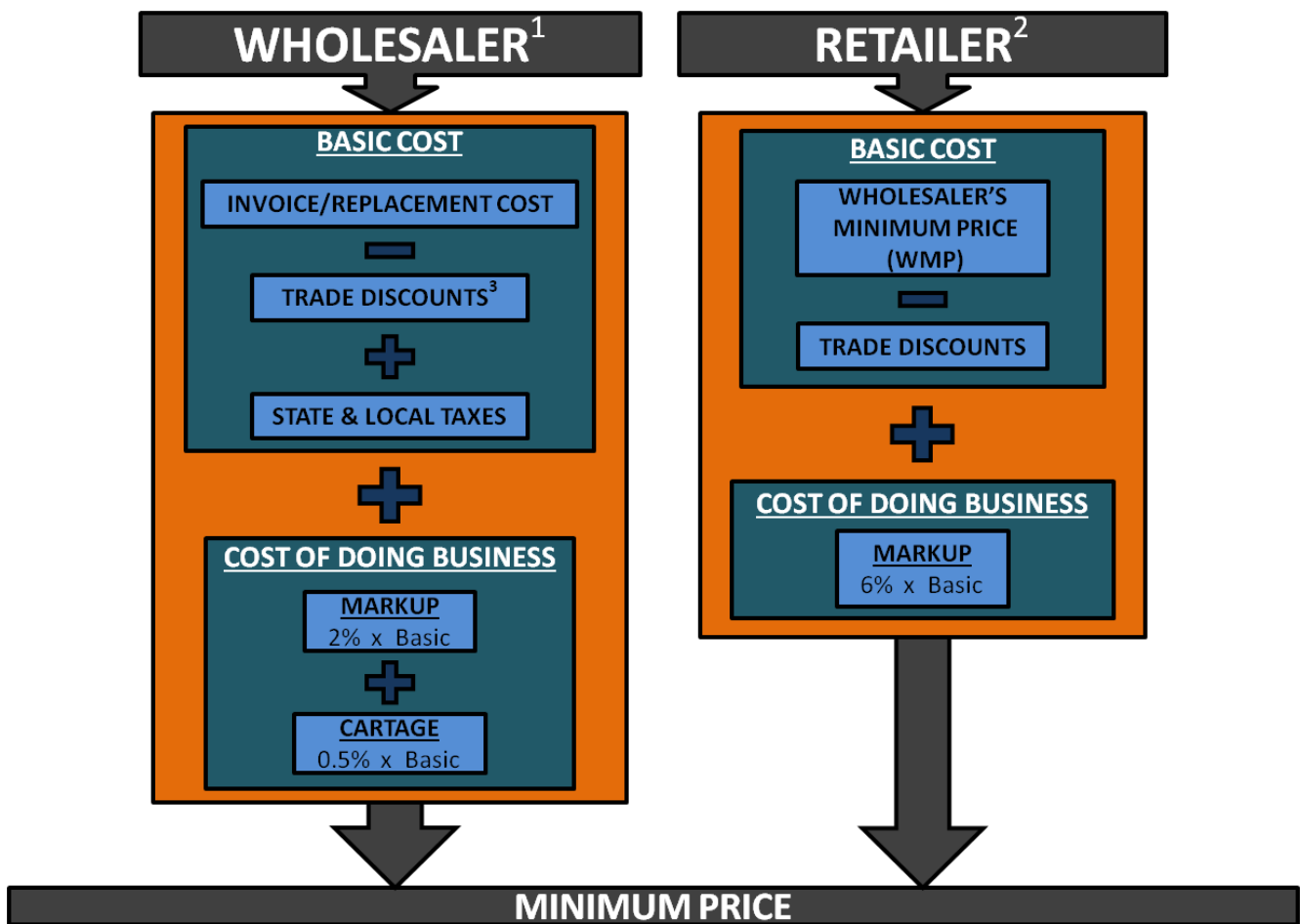
Mississippi



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	2
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Mississippi		2%	6%	8%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↓ Below Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	--	Retailer/Dealer	--
Wholesaler/Distributor	--	Distributing Party Not Addressed	--

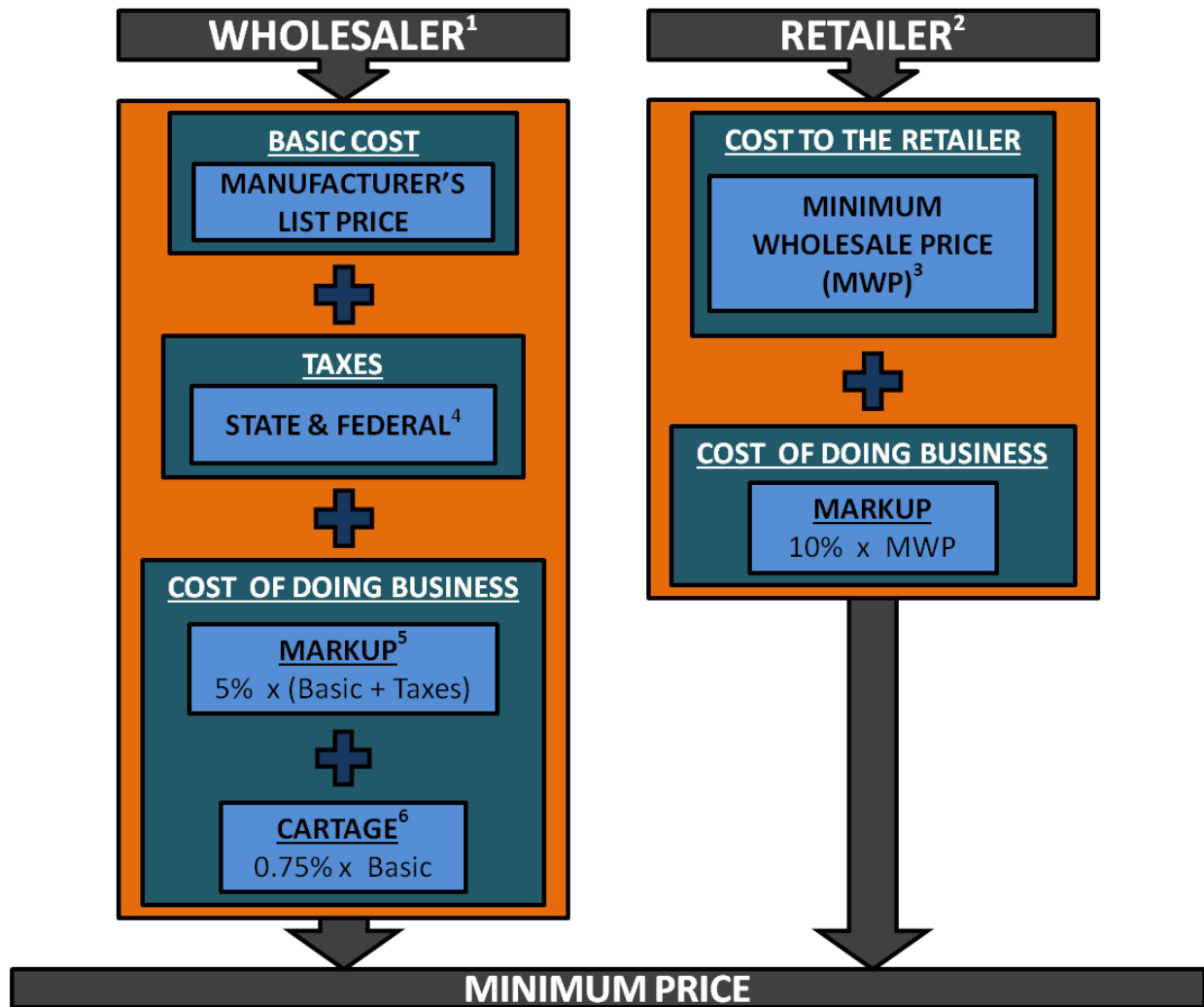
Montana



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	2
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	✓
Below-Cost Coupons Permitted	
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Montana		5%	10%	15%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↑ Above Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

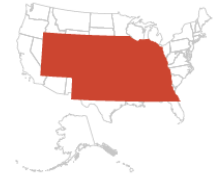
Buy-One-Get-One or Multi-Pack	✓
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	✓

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	--	Retailer/Dealer	--
Wholesaler/Distributor	--	Distributing Party Not Addressed	--

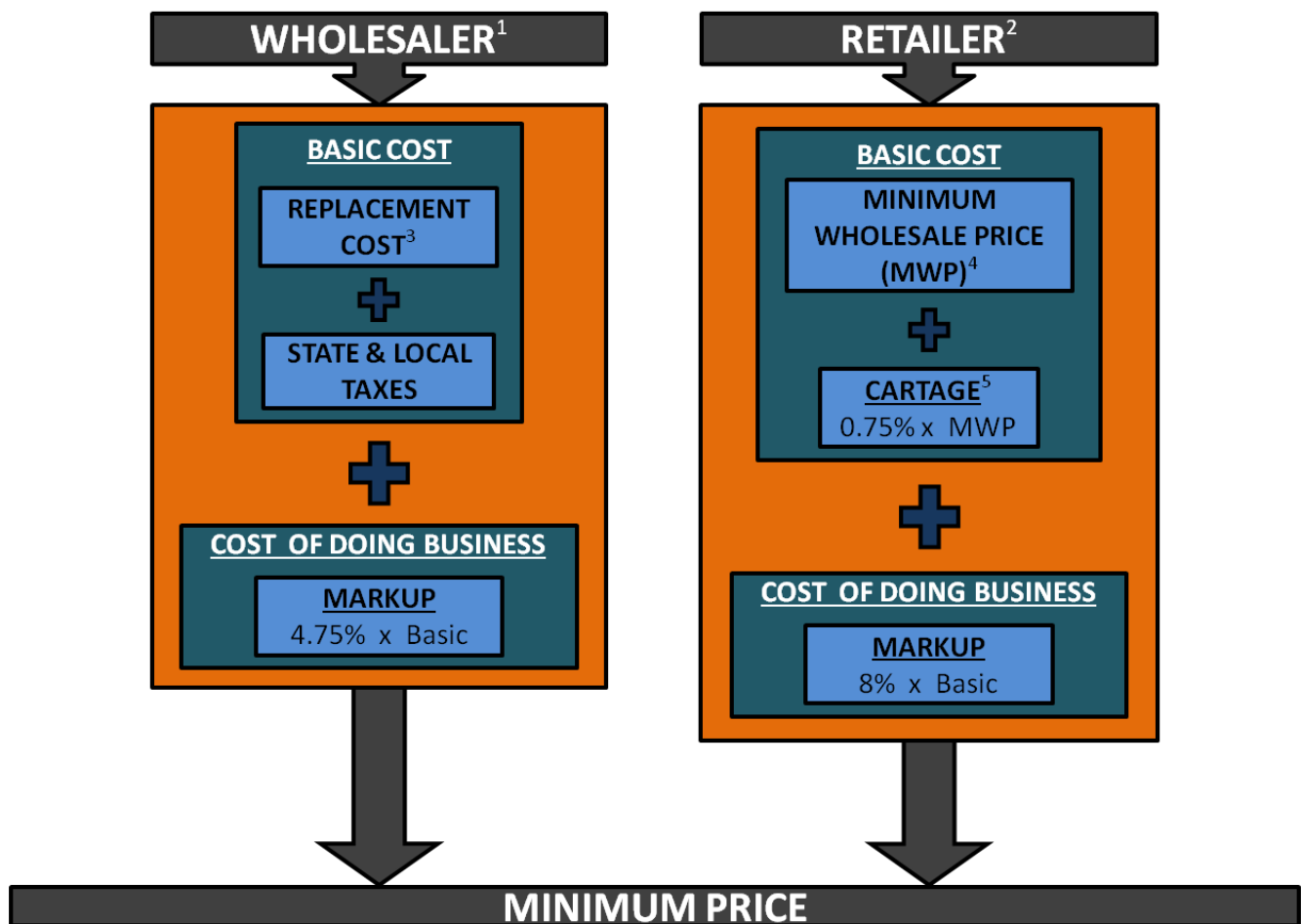
Nebraska



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors
decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors
increasing price:
Above Average

Total Decrease Factors (State):	5
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	✓
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	
Trade Discounts Include Discount Programs	✓
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Nebraska		4.75%	8%	12.75%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	✓
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	✓	Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	

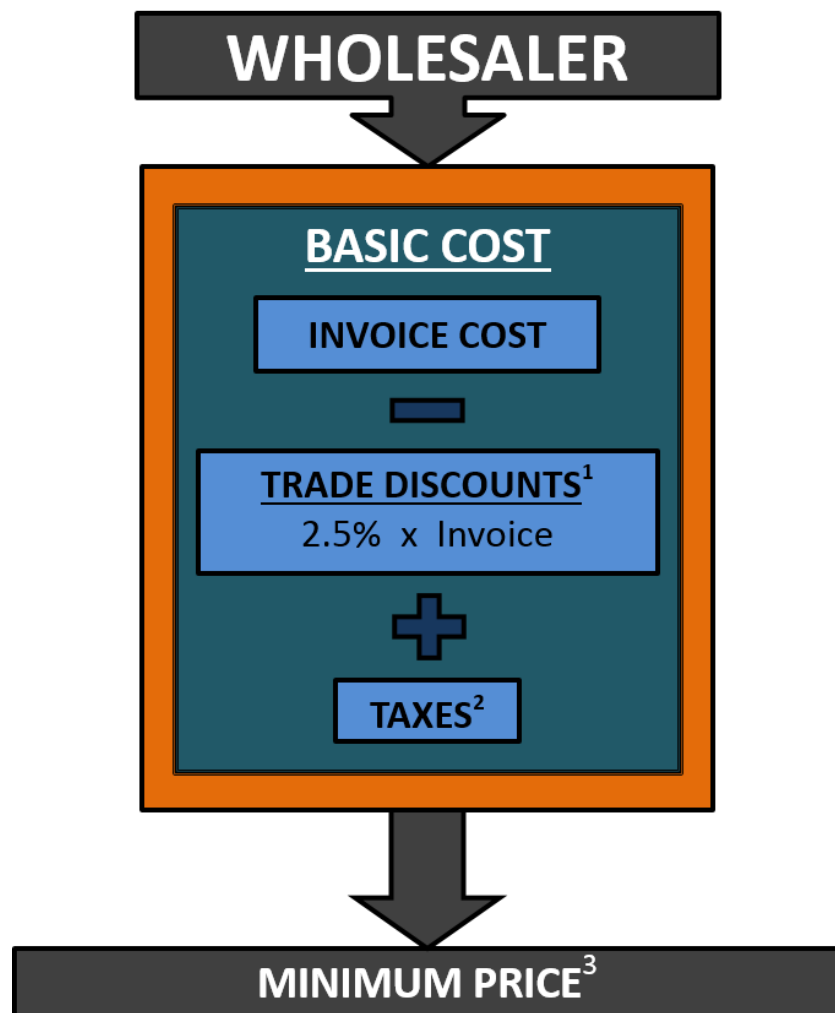
Nevada



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	2
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	1
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	
Markup Applied	
Taxes	✓
Cartage	
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Nevada	--	--	--	--	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	--
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	--

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	--	Retailer/Dealer	--
Wholesaler/Distributor	--	Distributing Party Not Addressed	--

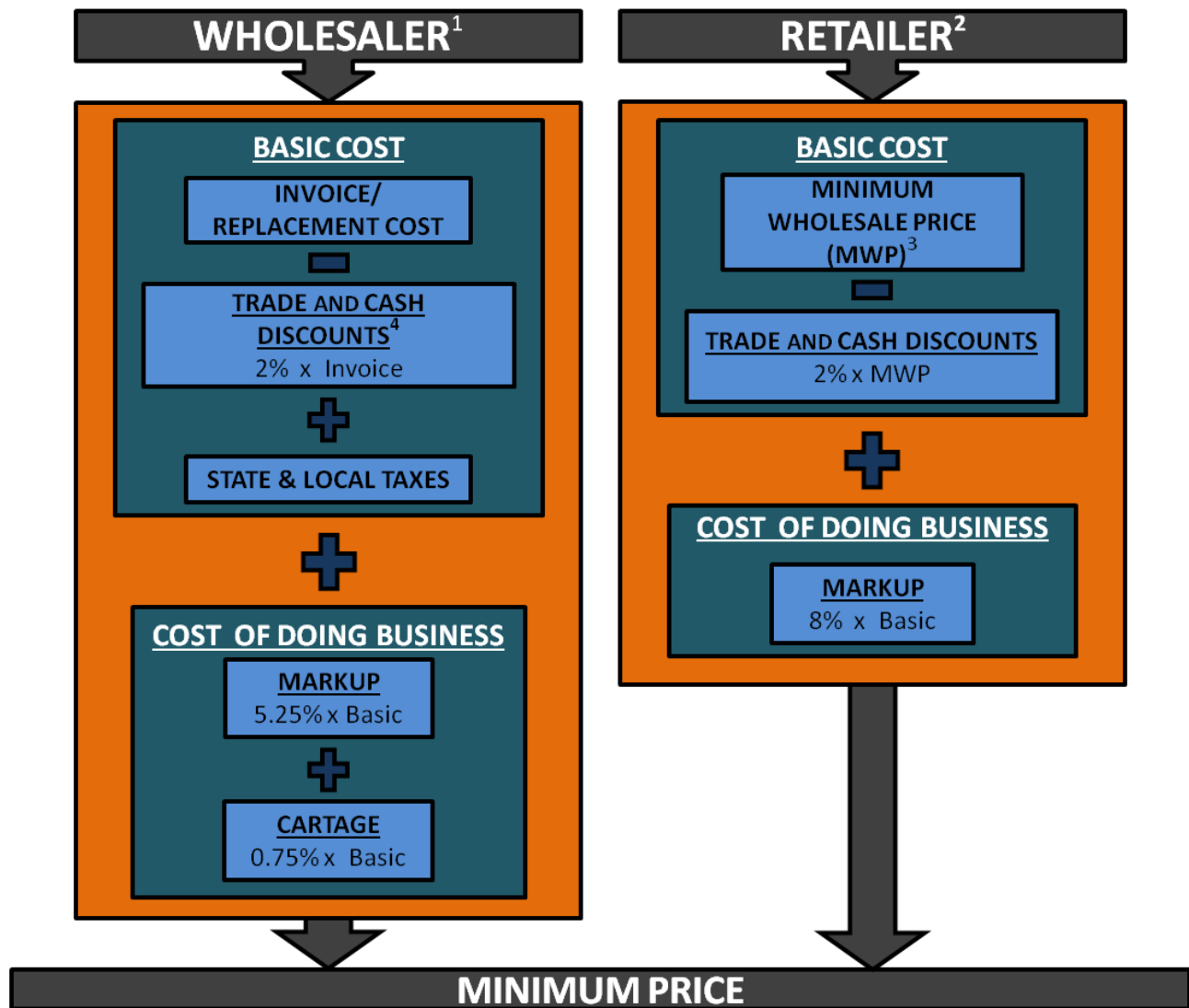
New Jersey



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	2
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
New Jersey		5.25%	8%	13.25%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↑ Above Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	--	Retailer/Dealer	--
Wholesaler/Distributor	--	Distributing Party Not Addressed	--

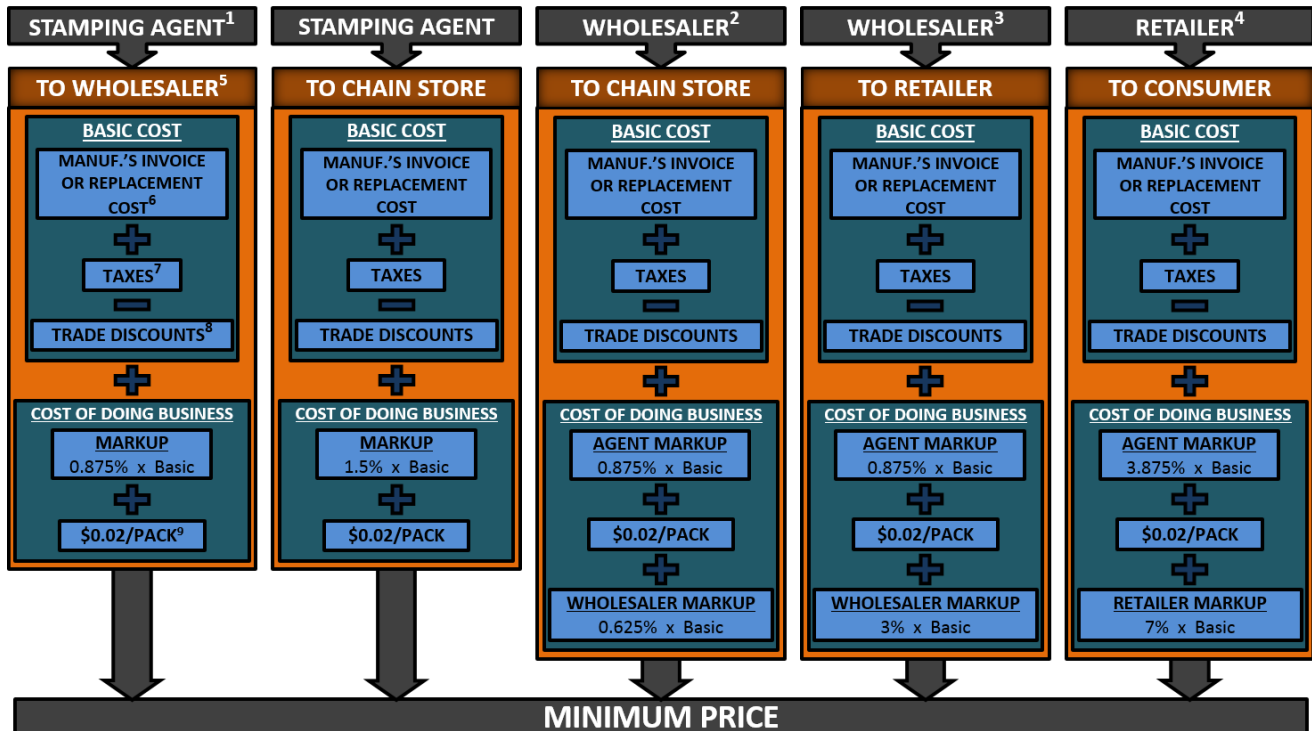
New York



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



OTP Pricing – 2015

State OTP pricing scheme matches Cigarette Pricing? Yes No

Types of OTP Regulated

Tobacco Products	✓	Moist Snuff	✓
Cigars	✓	Dry Snuff	✓
Little Cigars	✓	Snus/Smokeless	
Pipe Tobacco		Bidis	
Chewing Tobacco	✓	Other	✓
Total Products			7

OTP Pricing Scheme



Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	2
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	3
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
New York	0.875%	3%	7%	10.875%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	--	Retailer/Dealer	--
Wholesaler/Distributor	--	Distributing Party Not Addressed	--

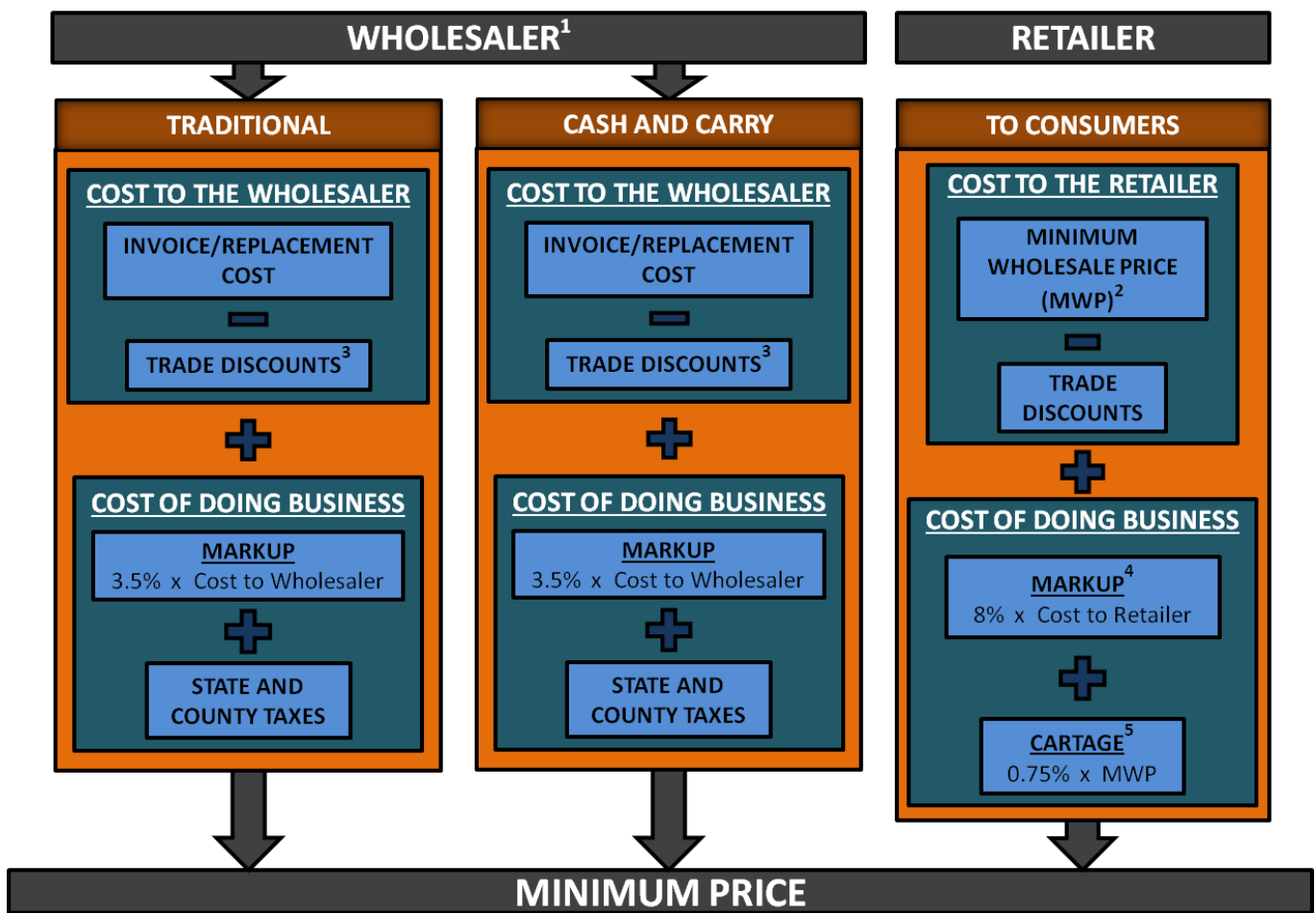
Ohio



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	4
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Ohio		3.5%	8%	11.5%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

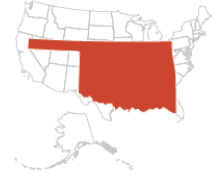
Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	
Wholesaler/Distributor	

Retailer/Dealer	
Distributing Party Not Addressed	✓

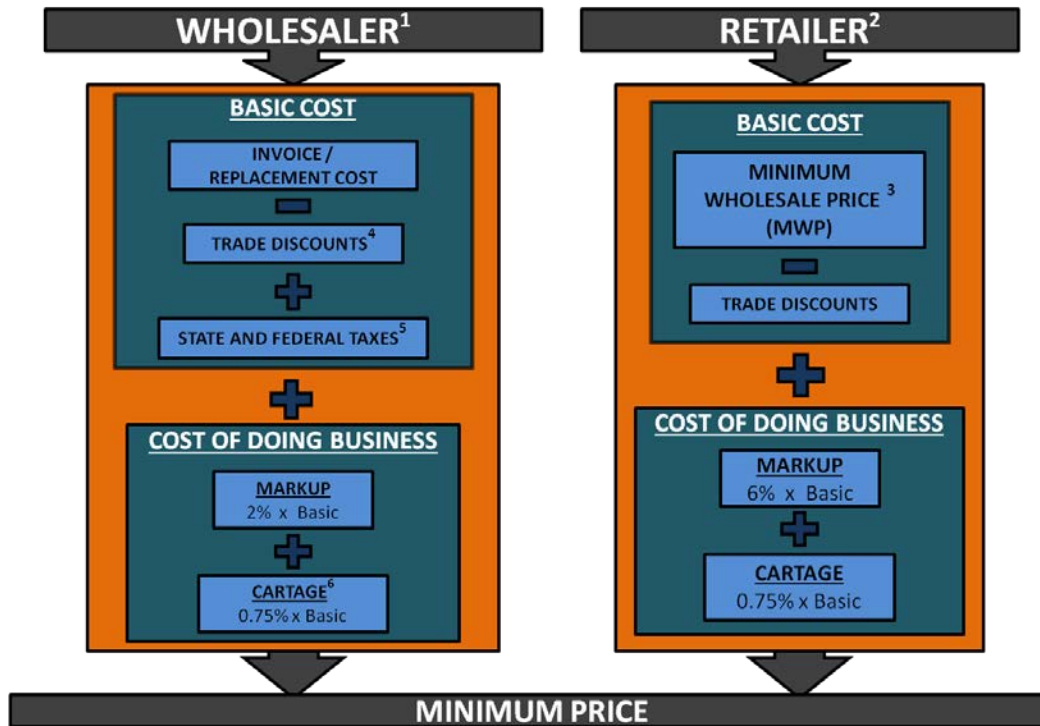
Oklahoma



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



OTP Pricing – 2015

State OTP pricing scheme matches Cigarette Pricing? Yes No

Types of OTP Regulated

Tobacco Products	✓	Moist Snuff	
Cigars	✓	Dry Snuff	
Little Cigars		Snus/Smokeless	
Pipe Tobacco	✓	Bidis	✓
Chewing Tobacco	✓	Other	✓
Total Products			6

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	5
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	✓
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Oklahoma		2%	6%	8%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↓ Below Average

Combination Sales

Types of Combination Sales Permitted

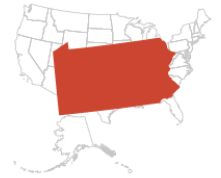
Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer		Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	✓

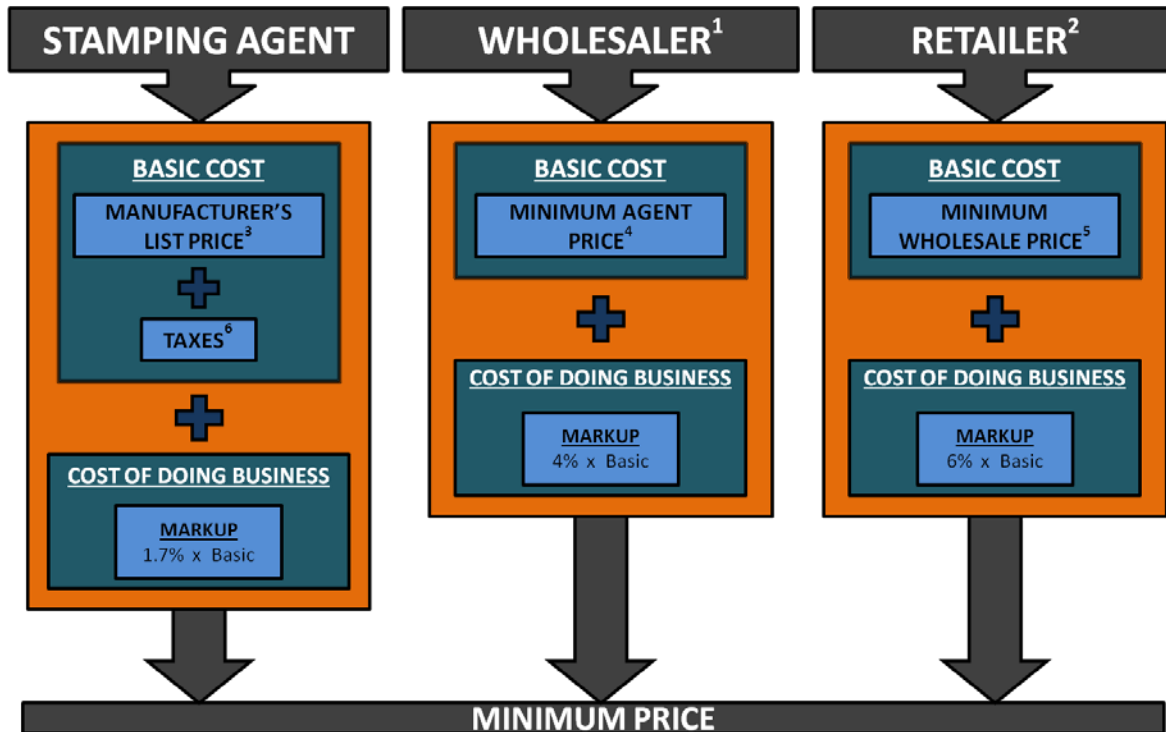
Pennsylvania



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



OTP Pricing – 2015

State OTP pricing scheme matches Cigarette Pricing? Yes No

Types of OTP Regulated

Tobacco Products		Moist Snuff	
Cigars		Dry Snuff	
Little Cigars	✓	Snus/Smokeless	
Pipe Tobacco		Bidis	
Chewing Tobacco		Other	
Total Products			1

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors
decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors
increasing price:
Above Average

Total Decrease Factors (State):	4
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	✓
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Pennsylvania	1.7%	4%	6%	11.7%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	✓
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	✓	Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	

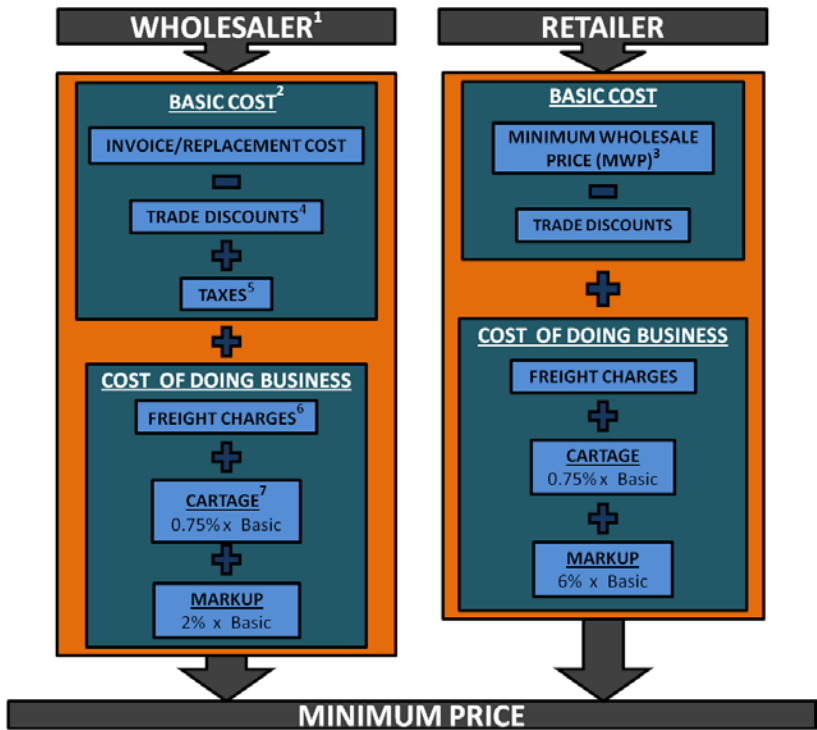
Rhode Island



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



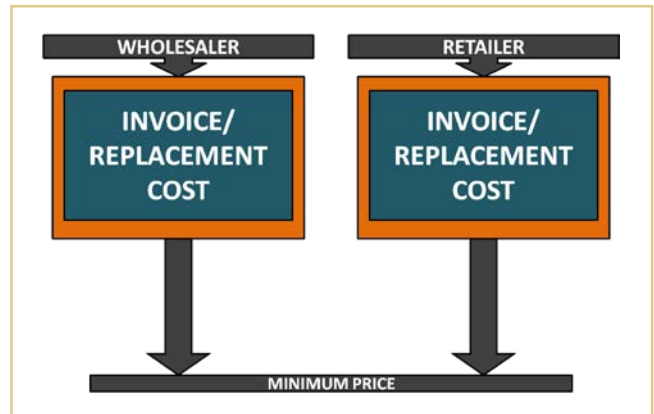
OTP Pricing – 2015

State OTP pricing scheme matches Cigarette Pricing? Yes No

Types of OTP Regulated

Tobacco Products	✓	Moist Snuff	✓
Cigars	✓	Dry Snuff	✓
Little Cigars		Snus/Smokeless	
Pipe Tobacco		Bidis	
Chewing Tobacco	✓	Other	
Total Products			5

OTP Pricing Scheme



Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	3
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	

Total Increase Factors (State):	5
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Rhode Island		2%	6%	8%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↓ Below Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	

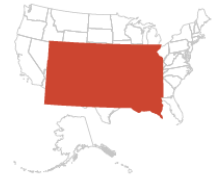
Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	
Wholesaler/Distributor	

Retailer/Dealer	
Distributing Party Not Addressed	✓

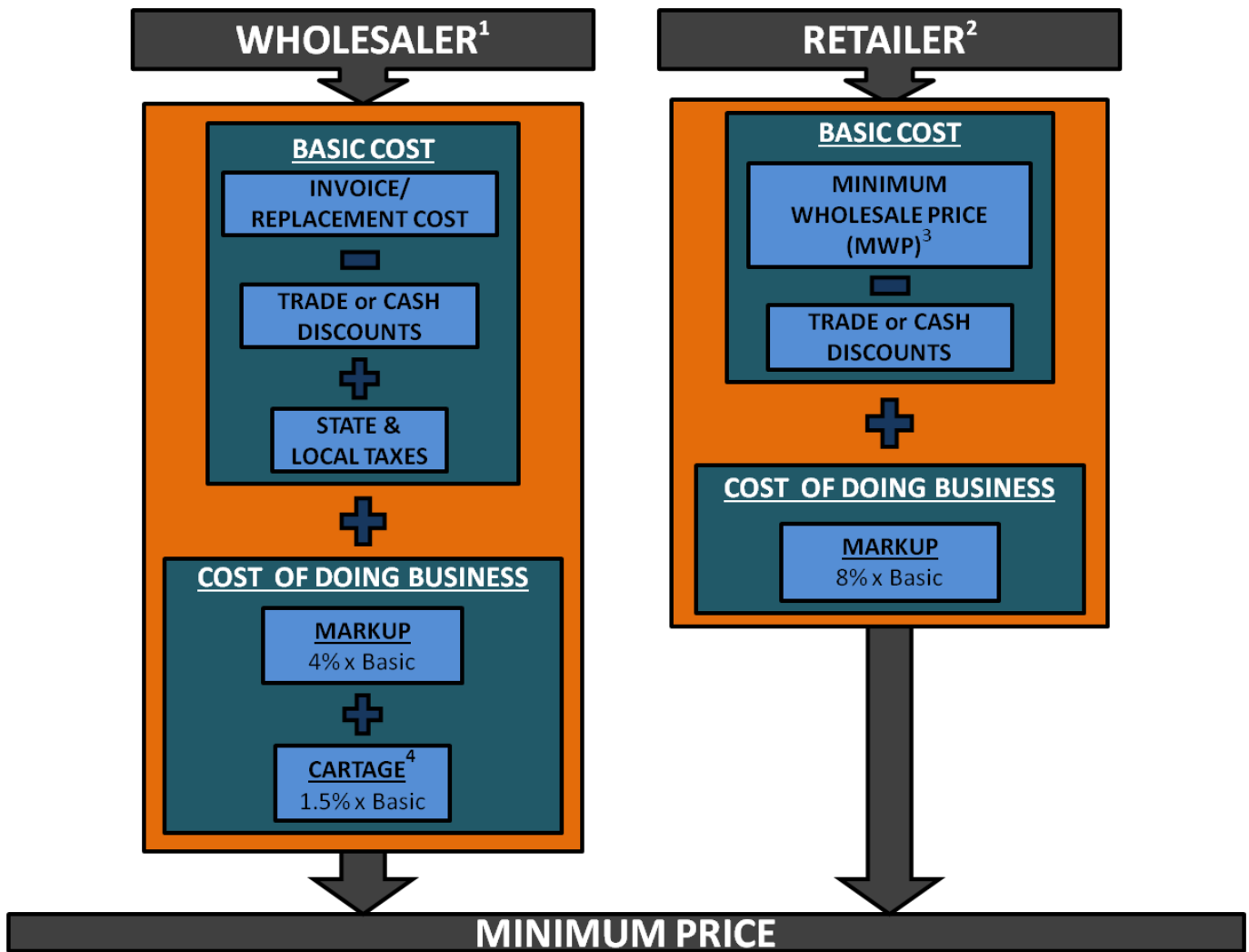
South Dakota



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Above Average

Total Decrease Factors (State):	2
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
South Dakota		4%	8%	12%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	--	Retailer/Dealer	--
Wholesaler/Distributor	--	Distributing Party Not Addressed	--

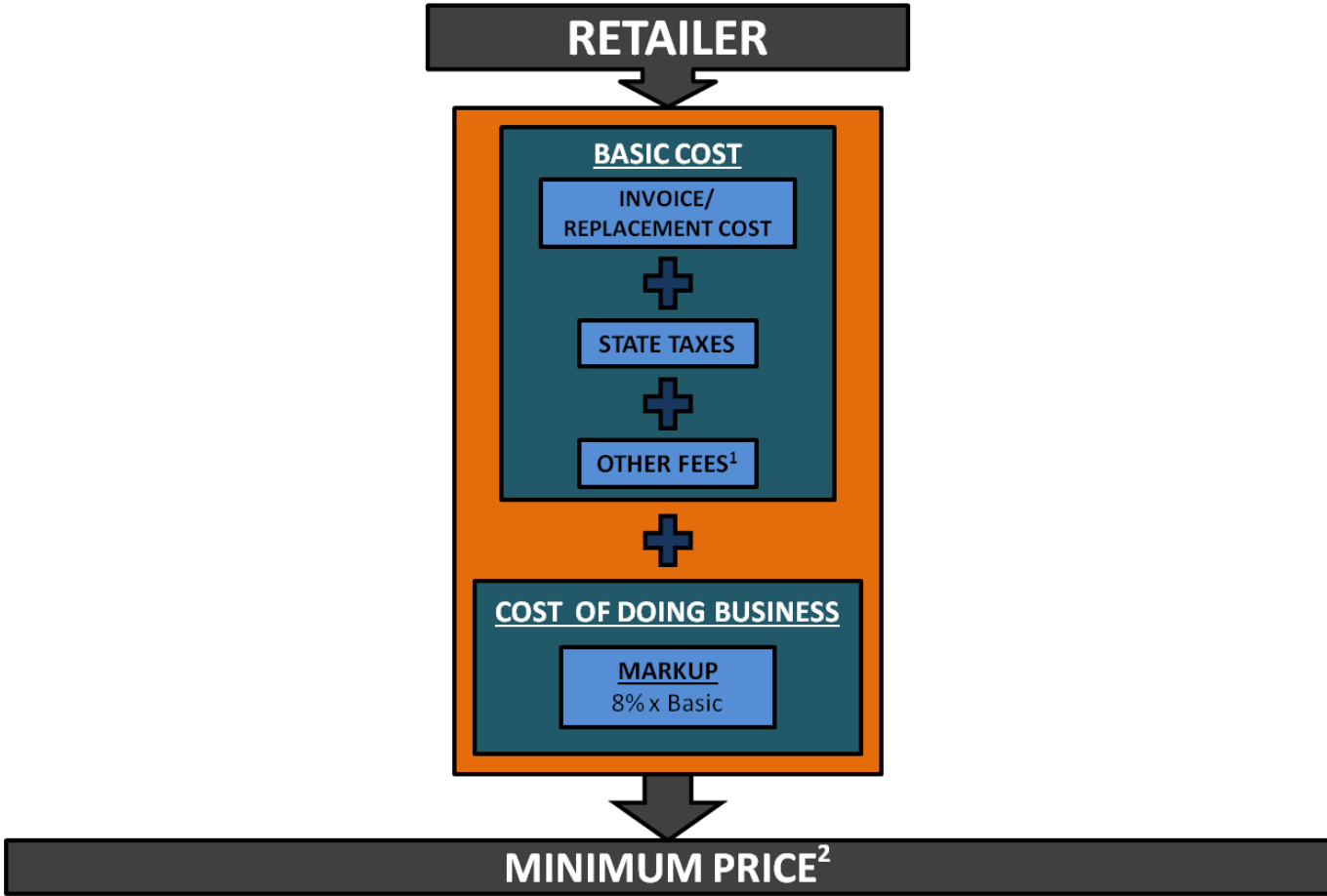
Tennessee



Minimum Markup Minimum Pricing

Yes *Blank* No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	2
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	

Total Increase Factors (State):	3
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Tennessee			8%	8%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↓ Below Average

Combination Sales

Types of Combination Sales Permitted

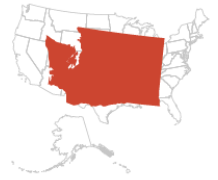
Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	✓	Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	

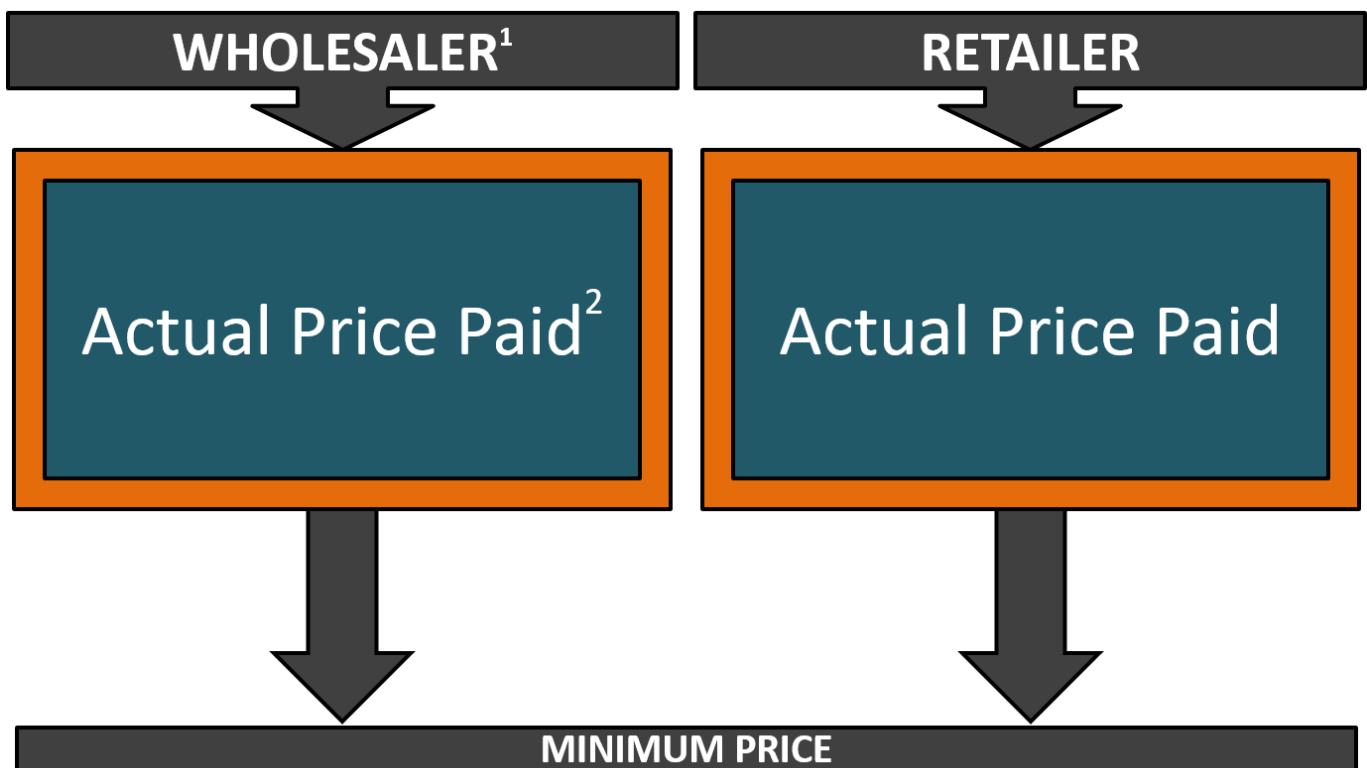
Washington



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors decreasing price:
Below Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors increasing price:
Below Average

Total Decrease Factors (State):	2
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	

Total Increase Factors (State):	1
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	
Taxes	
Cartage	
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Washington	--	--	--	--	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	--
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	--

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	--
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	--

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	
Wholesaler/Distributor	

Retailer/Dealer	
Distributing Party Not Addressed	✓

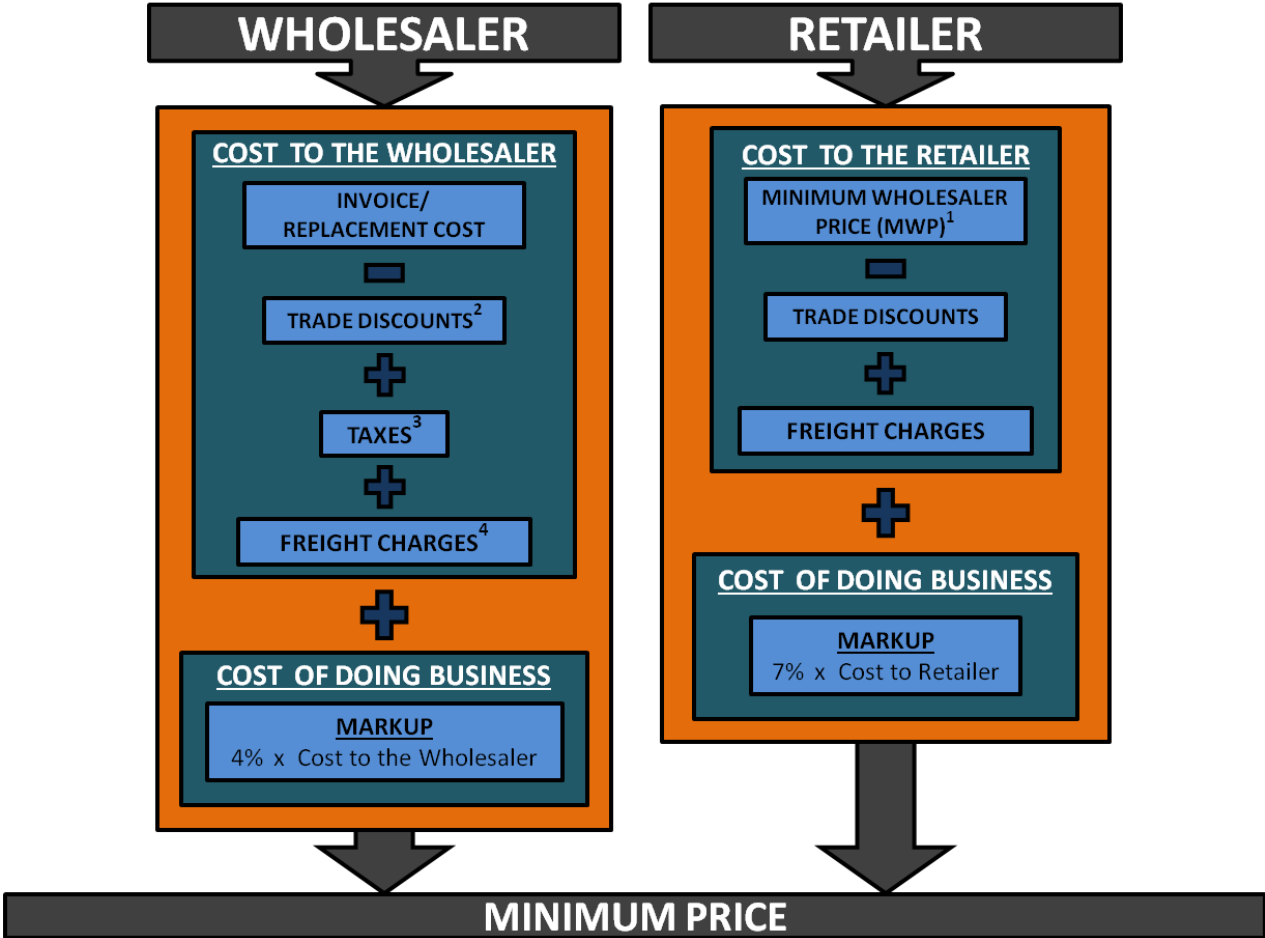
West Virginia



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



Note: This state does not set a minimum price for OTP.

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors
decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors
increasing price:
Above Average

Total Decrease Factors (State):	5
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	✓
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
West Virginia		4%	7%	11%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	--
Tobacco Product + Coupon	✓
Tobacco Product + Non-Tobacco Product	--

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	✓
Wholesaler/Distributor	

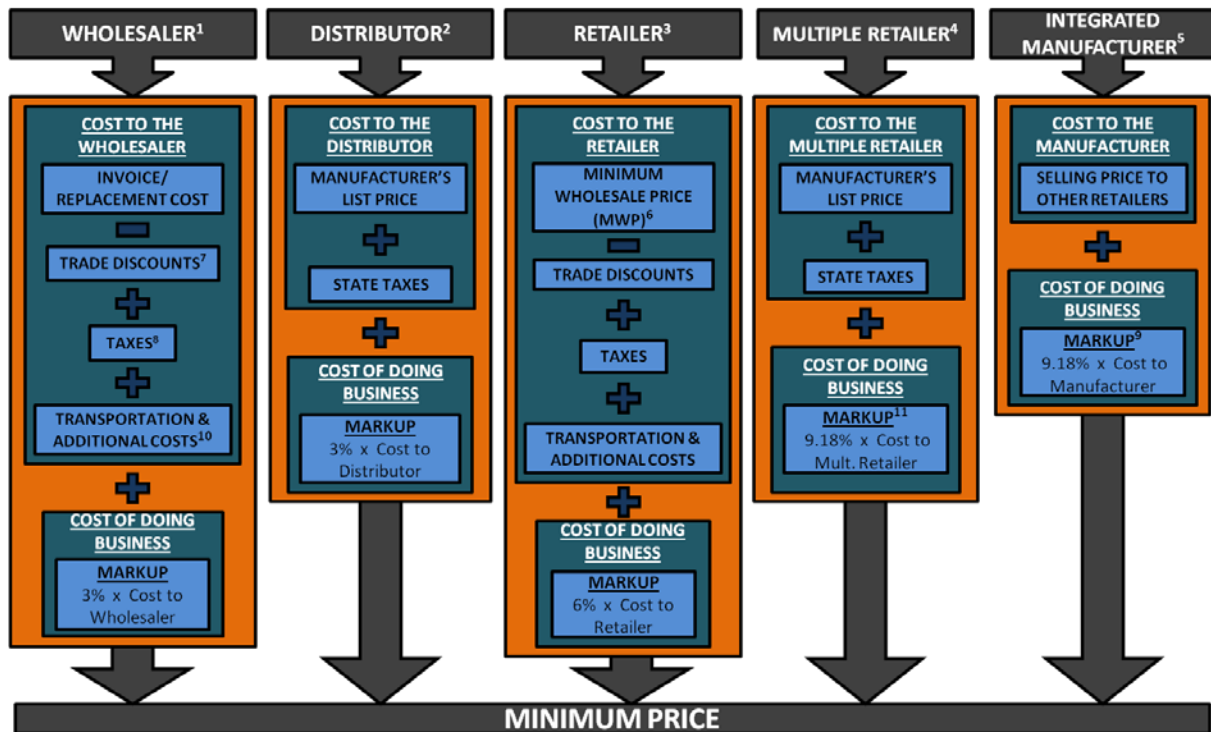
Retailer/Dealer	
Distributing Party Not Addressed	



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



OTP Pricing – 2015

State OTP pricing scheme matches Cigarette Pricing? Yes No

Types of OTP Regulated

Tobacco Products	✓	Moist Snuff	✓
Cigars	✓	Dry Snuff	✓
Little Cigars		Snus/Smokeless	
Pipe Tobacco	✓	Bidis	
Chewing Tobacco	✓	Other	✓
Total Products			7

Formulating Price

State Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That
DECREASE PRICE



Number of factors
decreasing price:
Above Average

Pricing Formula Elements That
INCREASE PRICE



Number of factors
increasing price:
Above Average

Total Decrease Factors (State):	5
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	✓
Consumers Can Receive Below-Cost Coupons	✓
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	✓
Competitor Price-Matching Permitted	✓

Total Increase Factors (State):	4
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	State vs Nat'l Total Markups
Wisconsin		3%	6%	9%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below Average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↓ Below Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer		Retailer/Dealer	
Wholesaler/Distributor		Distributing Party Not Addressed	✓



Individual Local Profiles

Section 5: Individual Local Profiles

How to Read the Local Profile Pages

1) **[Method of pricing]**

This indicates which type of pricing formula a locality uses to establish minimum cigarette prices.

2) **[Figure 1: Cigarette PATH Chart]**

This chart illustrates the cigarette pricing formulas for each distributing party regulated by a given locality, including which pricing elements are applied, and in what order. Detailed, annotated notes for each chart can be found [here](#).

3) **[OTP Pricing]**

This presence of this section indicates that a locality regulates the minimum price of OTP.

4) **[OTP Pricing Scheme Matches?]**

This box indicates whether a locality regulates OTP using the same pricing scheme as is used for cigarette price regulation.

5) **[Table 1: OTP Types Regulated]**

This table indicates which OTP are regulated by a locality's minimum pricing laws. The column is checked where a state applies its pricing formula to the listed product.

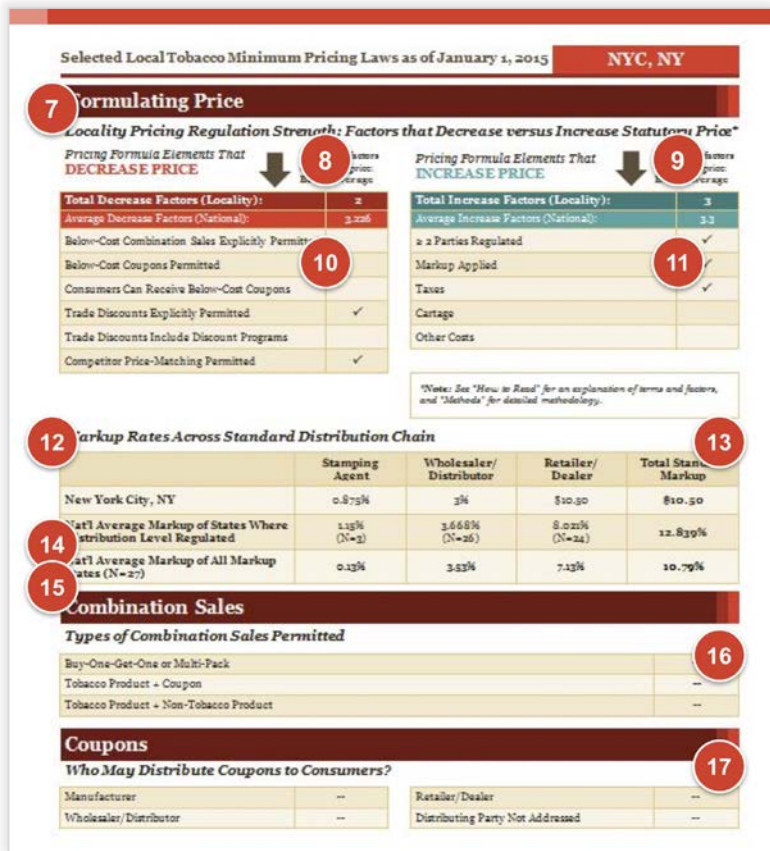
6) **[Figure 2: OTP PATH Chart]**

This chart only appears for states that have a pricing scheme for OTP that is different than the formula used for cigarettes. It illustrates the OTP pricing formulas for each distributing party regulated by a given locality, including which pricing elements are applied, and in what order. Detailed, annotated notes for each chart can be found [here](#).



7) **[Formulating Price]**

This section illustrates which components are found in a locality's pricing formula and indicates the presence of factors that tend to increase or decrease the ultimate consumer price of cigarettes.



8) **[Number of Factors Decreasing Price]**

This section shows where a locality falls in relation to the average number of decrease factors across all MPP states. The column indicates national average and locality total.

9) **[Number of factors that increase price]**

This section shows where a locality falls in relation to the average number of increase factors across all MPP states. The column indicates national average and locality total.

10) **[Table 2 – Decrease Factors]**

This column is checked if the listed decrease factor is found in a locality's pricing formula.

11) **[Table 3 – Increase Factors]**

This column is checked if the listed increase factor is found in a locality's pricing formula.

12) **[Table 4: Markup Rates Across Standard Distribution Chain]**

This table shows the locality's markup rates for the three vendors a cigarette most likely travels through in its movement through a standard distribution chain. These are simply percentages, and do not indicate the base price to which they are applied. The total standard markup is a basic sum of all applicable markups, and does not reflect compounding effects, or the base costs to which these percentages are applied. The national average is the average for that given party among states that regulate that particular party.

13) **[Markup Above/Below Average]**

This indicates whether a locality's total standard markup is above, below, or equal to the applicable national state average. Localities without applicable or comparable markups are marked with "—."

14) **[National Average Markup of States Where Distribution Level Regulated]**

This row indicates the averages for each portion of a standard distribution chain. Averages

are calculated using only those states that apply a markup to that particular distributing party (sample size is indicated for each distribution level). The Total Standard Markup for that row is the sum of those averages.

15) [National Average Markup of All Markup States (N=27)]

This row indicates the averages for each portion of a standard distribution chain. Averages are calculated across all states that apply any markup to any distributing party. The Total Standard Markup for that row is the sum of those averages (and the average of all total markups across all markup states).

16) [Types of Combination Sales]

If this column is checked, the locality allows a particular combination sale type.

17) [Who May Distribute Coupons?]

If this column is checked, the listed party can distribute coupons to consumers.

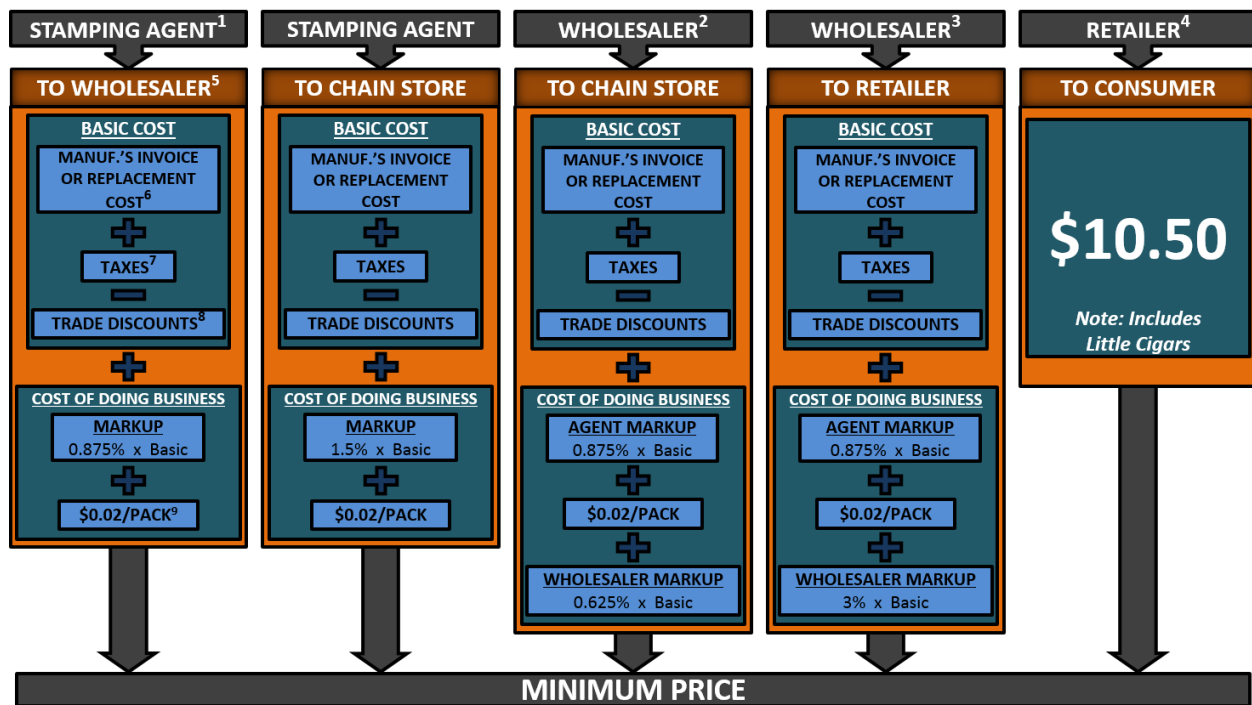
New York City, New York



Minimum Markup Minimum Pricing

Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



OTP Pricing – 2015

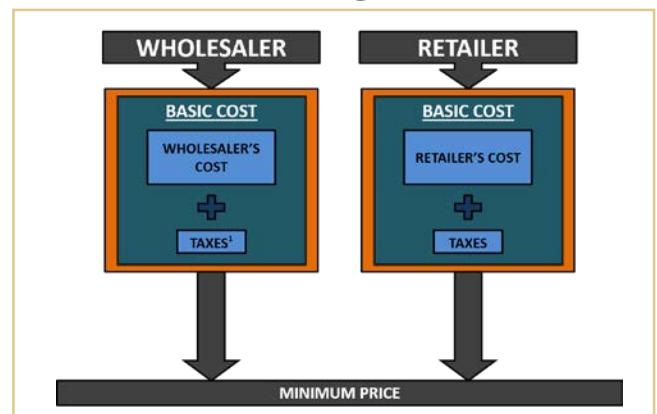
Local OTP pricing scheme matches Cigarette Pricing? Yes No

Types of OTP Regulated

Tobacco Products	<input checked="" type="checkbox"/>	Moist Snuff	<input checked="" type="checkbox"/>
Cigars	<input checked="" type="checkbox"/>	Dry Snuff	<input checked="" type="checkbox"/>
Little Cigars	<input checked="" type="checkbox"/>	Snus/Smokeless	<input checked="" type="checkbox"/>
Pipe Tobacco	<input checked="" type="checkbox"/>	Bidis	<input checked="" type="checkbox"/>
Chewing Tobacco	<input checked="" type="checkbox"/>	Other	<input checked="" type="checkbox"/>

Total Products **10**

OTP Pricing Scheme



Formulating Price

Locality Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That **DECREASE PRICE**  Number of factors decreasing price: **Below Average**

Pricing Formula Elements That **INCREASE PRICE**  Number of factors increasing price: **Below Average**

Total Decrease Factors (Locality):	2
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	
Consumers Can Receive Below-Cost Coupons	
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	✓

Total Increase Factors (Locality):	3
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	
Other Costs	

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	Locality vs Nat'l Total Markups
New York City, NY	0.875%	3%	\$10.50	\$10.50	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	--
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	--

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	--
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	--

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	--
Wholesaler/Distributor	--

Retailer/Dealer	--
Distributing Party Not Addressed	--

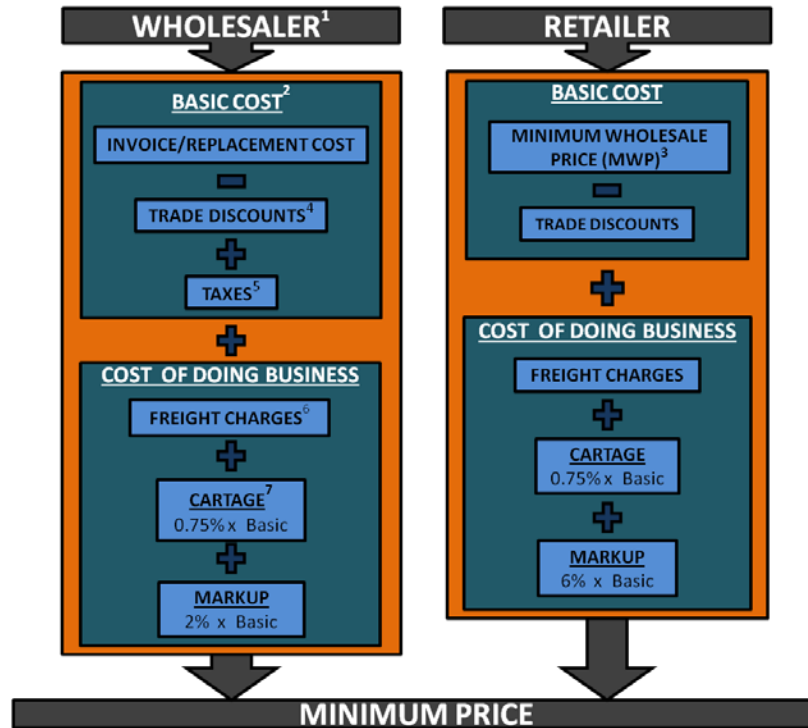
Providence, Rhode Island



Minimum Markup Minimum Pricing

✓ Yes Blank No -- Not Applicable/Addressed

Cigarette Pricing – 2015



OTP Pricing – 2015

Local OTP pricing scheme matches Cigarette Pricing? Yes No

Types of OTP Regulated

Tobacco Products		Moist Snuff	✓
Cigars	✓	Dry Snuff	✓
Little Cigars	✓	Snus/Smokeless	✓
Pipe Tobacco	✓	Bidis	
Chewing Tobacco	✓	Other*	✓
Total Products			6

*Other includes, but is not limited to, dissolvables and electronic cigarette cartridges.

Formulating Price

Locality Pricing Regulation Strength: Factors that Decrease versus Increase Statutory Price*

Pricing Formula Elements That **DECREASE PRICE**



Number of factors decreasing price: **Below Average**

Pricing Formula Elements That **INCREASE PRICE**



Number of factors increasing price: **Above Average**

Total Decrease Factors (Locality):	1
Average Decrease Factors (National):	3.2
Below-Cost Combination Sales Explicitly Permitted	
Below-Cost Coupons Permitted	
Consumers Can Redeem Below-Cost Coupons	
Trade Discounts Explicitly Permitted	✓
Trade Discounts Include Discount Programs	
Competitor Price-Matching Permitted	

Total Increase Factors (Locality):	5
Average Increase Factors (National):	3.3
≥ 2 Parties Regulated	✓
Markup Applied	✓
Taxes	✓
Cartage	✓
Other Costs	✓

**Note: See "How to Read" for an explanation of terms and factors, and "Methods" for detailed methodology.*

Markup Rates Across Standard Distribution Chain

	Stamping Agent	Wholesaler/Distributor	Retailer/Dealer	Total Standard Markup	Locality vs Nat'l Total Markups
Providence, RI		2%	6%	8%	--
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%	↓ Below average
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%	↑ Above Average

Combination Sales

Types of Combination Sales Permitted

Buy-One-Get-One or Multi-Pack	--
Tobacco Product + Coupon	--
Tobacco Product + Non-Tobacco Product	--

Coupons

Who May Distribute Coupons to Consumers?

Manufacturer	--	Retailer/Dealer	--
Wholesaler/Distributor	--	Distributing Party Not Addressed	--

Section 6: Conclusion

Raising the price of tobacco remains one of the most successful strategies for reducing tobacco use⁵ and tobacco product pricing laws can be an effective tool in this effort. States and localities continue to utilize a variety of regulatory methods to strengthen their tax and price initiatives. This chartbook presents a comprehensive overview of tobacco product pricing policies at the state level (as well as select, local policies) that helps inform the overall pricing policy discussion.

Several key themes emerged from this study:

- 1) Underlying policy goals may be shifting.** While the original intent of minimum pricing laws was to ensure fair competition amongst tobacco vendors, policymakers are increasingly looking to minimum pricing laws to help achieve public health goals, such as the reduction of harm from tobacco use. Unfortunately, provisions seeking to address one aim can negatively impact the other. It is important for policymakers to recognize this tension and approach changes to pricing laws appropriately. Identifying clear goals for existing or future pricing laws will enhance the effectiveness of these policies.
- 2) Minimum pricing schemes are complicated.** Many minimum pricing schemes contain a variety of components which vary depending on brand and can be difficult to decipher. State resources dedicated to explaining these laws to businesses, regularly updating product price sheets, and otherwise working to enforce existing regulations could be minimized if the schemes were simplified. For example, removing or integrating known discounting programs into pricing regulations and setting unambiguous price floors based on market prices could ease state enforcement efforts.
- 3) The markup rate is most important tool for reducing consumption.** While the statutory markup provides the largest component of price regulation, the current average markup across the standard distribution chain falls well below the 18% markup typically seen in free market pricing.²² If pricing laws are meant to effectively increase the price of cigarettes, markups must be increased in order to have real impact on consumer behavior.
- 4) Regulating across the distribution chain is more likely to increase retail tobacco prices.** Pricing schemes that regulate multiple levels of the distribution chain provide a more robust and tighter framework for establishing tobacco product pricing, minimize the opportunity for (or impact of) discounting programs, and generally result in higher, ultimate prices.
- 5) Allowing discounts weakens minimum pricing policies.** Coupons and discounting mechanisms weaken pricing efforts in two key ways: **pre-sale**, where the base cost of cigarettes (to which statutory markups are applied) is reduced through trade discounts, manufacturer-sponsored programs, or competitor price matching; and **point-of-sale**, where coupons and combination sales lower the purchase price of tobacco for consumers. These discounting techniques attack pricing regulations from both ends of the distribution chain and significantly reduce the impact of statutory markups.

- 6) Regulating OTP prices can reduce product substitution in higher-priced cigarette markets.** Few states apply pricing regulations to tobacco products other than cigarettes. Developing OTP minimum pricing in tandem with cigarette minimum pricing flattens the market and can minimize substitution from cigarettes to OTP among price-sensitive consumers, including youth, where the public health impact of tobacco use is often greatest.
- 7) Innovative policies are being implemented locally.** State tobacco minimum price laws have changed little over time and, for the most part, were not developed to improve public health. Local policies, such as those implemented by Providence and New York City, are focused on reducing consumption through pricing efforts, targeting coupon redemption and multipack discounts and setting clear price floors that leave little room for ambiguity. Such policies ease enforcement efforts and have a greater public health impact. At the same time, they regulate OTP pricing and reduce incentives for substitution from cigarettes to other tobacco products.

In summary, this report demonstrates the wide variation in how states regulate prices of tobacco products and the impact these strategies can have on ultimate price. By examining the variety of components and regulatory changes over an 11-year period (2005-2015, inclusive), we were able to better understand how state tobacco minimum pricing laws function and identify how little these policies have changed over time.

As policymakers look to tobacco minimum price laws as a potential means of addressing public health concerns outside of taxation, it is also important to examine the different outcomes of both strategies. Minimum price policies, which generate revenue for the tobacco industry, can raise prices sufficiently to reduce consumption. Taxes can generate revenue for the government and be used (among other things) to fund tobacco prevention and cessation programs. While taxes may be the most direct means of raising tobacco prices, minimum pricing laws can help states reach these goals where tax increases are particularly challenging. This report helps to inform the tobacco control community about minimum pricing laws, how they function, and how they can be strengthened. It provides in-depth, state-level data that can be used by policymakers, state and local agencies, tobacco control practitioners and advocates, and the research community in future efforts to reduce tobacco consumption and improve public health.

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MPL Path Chart Footnotes

Alaska- Cigarette

- 1) Where a wholesaler acts as a retailer, the wholesaler must apply both the wholesaler and retailer markup. Alaska Stat. §§ 43.50.810(b).
- 2) While many states use the actual phrase “cost to the wholesaler,” Alaska does not; however, we have used it here for clarity.
- 3) The statute uses the phrase “full face value of all cigarette taxes,” which we have interpreted to mean any applicable excise taxes. Alaska Stat. §§ 43.50.810(a).
- 4) Alaska does not define its wholesale or retail markup as a percentage. Instead, the markup is applied as a numerical value (1.02 and 1.04, respectively). Alaska Stat. §43.50.810. We have converted it to a percentage here for consistency.

Arkansas- Cigarette

- 1) Where wholesalers sell to other wholesalers, the seller is not bound by the minimum markup formula. However, any subsequent sale to a retailer must abide by the state’s minimum pricing laws. Ark. Code Ann. § 4-75-710.
- 2) Where a retailer receives discounts normally only afforded wholesalers, the retailer must add the wholesaler markup (to the extent he or she received wholesaler discounts) to his own retailer markup when determining the minimum price. Therefore, even though the retailer may not purchase directly from a wholesaler, the wholesaler markup must still be added. Ark. Code Ann. § 4-75-702(4)(C).
- 3) “Gross invoice cost” is defined as the manufacturer’s or wholesaler’s price for the product sold as listed on the invoice to the wholesaler or retailer, as the case may be, before any deduction for allowances, whether manufacturer promotional allowances or otherwise, or for discounts of any kind.” Ark. Code Ann. § 4-75-702(1) (West 2010).
- 4) The statute defines “basic cost of cigarettes” in relation to the purchasing party. Ark. Code Ann. § 4-75-702(1). Therefore, the invoice or replacement cost to the retailer will generally be the minimum price the products can be purchased from the wholesaler, or the “minimum wholesale price,” as we’ve indicated here.

California- Cigarette

- 1) California courts have applied its Unfair Trade Practices laws to cigarettes. While there is no minimum markup law specific **only** to cigarettes, there is a provision within the Unfair Trade Practices laws that addresses the use of cash discounts by cigarette distributors. Cal. Bus. & Prof. Code § 17026.5 (West 2012).
- 2) The State of California differentiates between a cigarette distributor (one who sells unstamped cigarettes) and a cigarette wholesaler (one who sells stamped cigarettes). Under California law, sales from manufacturers to cigarette distributors are not taxed, but the sales between cigarette distributors and cigarette wholesalers are. Board of Equalization Publication 93, Nov. 2010; Board of Equalization Publication 78, June 2012. While these unfair practice laws do not define “distributors,” California courts have applied the min pricing laws to cigarette wholesalers. E &H Wholesale, Inc. v. Glaser Bros., 204 Cal. Rptr. 838, 842 (Ct. App. 1984). There is no current law, publication, or judicial guidance clarifying whether this pricing scheme is also applied to retailers.
- 3) “Regular term discounts” **may** be used to reduce the cost when given by cigarette manufacturers to distributors. Cal Bus & Prof Code § 17026.5. This includes discounts given for cash payments, which may be used to reduce the cost to the distributor, Cal Bus & Prof Code § 17026.5. However, “special” or “anticipatory” discounts for cash may not be used to reduce cost. Cal. Bus. & Prof. Code § 17026.5 (West 2012). This section was added to the Unfair Trade laws in 1985 following a 1984 determination by the courts that discounts for timely cash payments could *not* be used to reduce cost under the existing law. E &H Wholesale, Inc. v. Glaser Bros., 204 Cal. Rptr. 838, 842 (Ct. App. 1984). While California allows for uniformly applied term discounts, it prohibits the use of “secret” discounts or rebates “not extended to all purchasers purchasing upon like terms and conditions.” Cal. Bus. & Prof. Code § 17045 (West 2012).
- 4) In the State of California, both the Cigarette Tax AND the Cigarette and Tobacco Products Surtax must be applied to cigarette sales. **Unfair Trade Practices laws do not explicitly state that these taxes be included in the minimum price for distributors.** Distributors **are** obligated to pay these taxes prior to sale, but the law states only that they **may** be reimbursed by the parties to whom they sell, not that they **shall**.

Colorado- Cigarette

- 1) Colorado is a Minimum Pricing state, however it does not have a tobacco or cigarette-specific minimum pricing law. Instead, it utilizes its Unfair Practices Act. The Supreme Court of Colorado applied a previous version of Colorado’s Unfair Practices Act to cigarette sales in 1940, however the laws did not then, nor currently, specifically mention cigarettes or tobacco. Dikeou v. Food Distribs. Ass’n, 107 Colo. 38 (1940). Colorado courts have not applied or interpreted the Act since amendments were made in 1993, 2007, and 2008.
- 2) Colorado’s Unfair Practices Act does not provide much guidance as to what constitutes “cost.” It is currently defined as “an appropriate determination of cost,” which must be “consistent with federal court interpretations of cost in federal predatory pricing cases under the federal ‘Sherman Act’, 15 USC § 1 et seq.” Colo. Rev. Stat. Ann. § 6-2-105. Previously, “cost” was defined more specifically, but was amended in 2008 to a more ambiguous definition.

Connecticut- Cigarette

- 1) Instead of the frequently-used terms “wholesalers” and “retailers,” Connecticut’s minimum pricing laws distinguish between “distributors” and “dealers.” While “distributor” is not specifically defined, “subjobbers,” “chain stores,” and “stamping agents,” are all defined as types of licensed distributors, who have defined pricing formulas. While “subjobber” was classified as a “distributor” for data purposes, we’ve used the term “subjobber” here to illustrate the pricing scheme more clearly. Conn. Gen. Stat. § 12-326a.
- 2) The presumptive cost of doing business where the stamping agent sells to a subjobber who subsequently sells to a dealer is the same as when a stamping agent sells directly to a dealer. Conn. Gen. Stat. § 12-326a(b).
- 3) In Connecticut, a “chain store” is defined as meaning “[...] a licensed distributor operating five or more retail stores with common ownership and control in this state for the sale of cigarettes, or franchising five or more retail stores in this state for the sale of cigarettes who shares in the gross profits generated by such stores and who purchases cigarettes at wholesale either from another distributor or direct from the manufacturer for sale to dealers but sells such cigarettes exclusively in or to retail stores such person is operating or franchising, or operating and servicing twenty-five or more cigarette vending machines in this state who buys such cigarettes at wholesale and sells them exclusively in such vending machines.” Conn. Gen. Stat. § 12-326a (a)(3) (2014).
- 4) The formula for determining the presumptive cost of doing business for a subjobber who sells to a dealer, and for a dealer who sells to a consumer, uses the “basic cost of cigarettes *to the stamping agent*.” Conn. Gen. Stat. § 12-326a(b)(3)(A).
- 5) The law explicitly states that cash discounts are not to be considered when subtracting trade discounts. C.G.S.A. § 12-326a.
- 6) Cartage is only to be added when the party pays for or performs the service. C.G.S.A. § 12-326a.
- 7) Where distributors sell to other distributors who have the same presumptive cost of doing business, the seller is not required to apply the minimum markup. However, any subsequent sale to a party with a different presumptive cost must abide by the state’s minimum pricing laws. Conn. Gen. Stat. § 12-326c.

District of Columbia- Cigarette

- 1) The statute uses the phrase “total invoice or replacement cost... to the retailer or wholesaler.” In practical terms, the retailer’s invoice or replacement cost is the minimum price the products can be purchased from the wholesaler. Thus, we have applied the retailer markup to the “minimum wholesale price” rather than the retailer’s invoice cost, to accurately depict the practical implications of the law. D.C. Code § 28-4521(3)
- 2) The Cash and Carry Wholesaler’s markup includes a 0.10% reduction from the traditional wholesaler markup of 2%. D.C. Code § 28-4522(b)
- 3) The statute uses the term “any applicable excise taxes.” DC ST § 28-4521. For purposes of this study, Washington D.C. is considered a state. Therefore, “taxes” refers to applicable excise taxes imposed by the District of Columbia.

Delaware- Cigarette

- 1) Where **any** type of wholesaler sells to any **other** type of wholesaler, the seller must apply a 1% markup to the sale. This markup applies regardless of whether **either** party is a traditional or cash & carry wholesaler. 6 Del.C. § 2603 (b). In many states, sales between wholesalers do not require a markup.
- 2) When a wholesaler buys cigarettes from another wholesaler, the purchasing wholesaler subsequently sells to a retailer, he or she must use the replacement cost when calculating the basic cost of cigarettes. 6 Del.C. § 2605 (b).
- 3) In-freight charges are only added if they are not already included in the invoice or replacement cost of the product. 6 Del.C. § 2602.
- 4) Delaware explicitly separates trade discounts from customary discounts for cash payment, to which it applies an actual percentage of the basic cost, stating that “...the usual and customary 2 percent cash discount” should be subtracted from the invoice or replacement cost of cigarettes. 6 Del.C. § 2602 (1).
- 5) While some states address cartage costs separately from the presumptive markup, Delaware’s markup is inclusive of any cartage costs incurred by the seller. 6 Del.C. § 2602 (4).
- 6) While many states apply minimum pricing laws to both wholesalers and retailers, Delaware’s minimum pricing laws only address minimum pricing for wholesalers. 6 Del.C. §§ 2601-2608.

Hawaii- Cigarette

- 1) The Hawaiian Supreme Court has applied Hawaii's Unfair Trade Practices laws to cigarette distributors. There is no minimum pricing law specific **only** to cigarettes or tobacco. *Island Tobacco Co., Ltd. v. R. J. Reynolds Tobacco Company*, 63 Haw. 289 (1981).
- 2) Hawaii does not differentiate between wholesalers and retailers within its Unfair Practices Act, but instead addresses a more general "distributor." HRS § 481-3.
- 3) Freight charges are only applied where they were not previously included in the invoice or replacement cost. Hawaii does not define a specific amount for freight charges. HRS § 481-3.
- 4) Cartage is only applied where it has been paid for or performed by the distributor. Hawaii does not define a specific amount for cartage. HRS § 481-3.
- 5) While Hawaii doesn't differentiate between wholesalers and retailers, it states that where a person is engaged in making sales at both retail and wholesale levels, "the "invoice cost" includes all elements recognized by good accounting practice as proper elements of the cost." HRS § 481-3. In states where we see parties engaged in sales at both levels, we often see laws that apply both parties' markups. Here, however, as there are not separate markups for each level of the distribution, and the law is not clearer in its pricing structure for such parties, the actual minimum price is a bit more ambiguous.

Iowa- Cigarette

- 1) Where one wholesaler sells to another wholesaler, the seller is not required to apply the markup. However, any subsequent sale to retailer must abide by the state's minimum pricing laws. ICA § 421B.5.
- 2) Where retailers receive discounts normally afforded only to wholesalers, the minimum retailer price includes the cost to the wholesaler, in addition to its own retailer markups. ICA § 421B.2(3)(c).
- 3) The basic cost to the retailer includes the invoice cost from the wholesaler. In practical terms, this is the minimum price the products can be purchased from the wholesaler ("minimum wholesale price" or "MWP"). ICA § 421B.2.
- 4) In determining the retailer's basic cost, the invoice or replacement cost of cigarettes (or MWP, as established in Footnote #3) is "exclusive of state cigarette tax." Therefore, one half of the state taxes are removed from the MWP when determining the retailer's basic cost. Iowa Admin. Code 701-84.2(421B).
- 5) Iowa's statutes state that the presumptive costs of doing business for wholesalers and retailers are 4% and 8%, respectively. The corresponding regulations state these costs to be 3% and 6%. Current minimum price lists for products on the Iowa Department of Revenue website utilize the higher presumptive costs found in the statute. Thus, we have included markups of four and eight percent, respectively. Iowa Dept. of Revenue, "Retailer's Cigarette/Tobacco Permit - Commonly Asked Questions," <http://www.iowa.gov/tax/forms/retailfaq.pdf>, Dec. 2010.
- 6) Half of the state taxes are included when calculating the party's "basic cost of cigarettes." ICA § 421B.2 (1), while the remaining half of the state taxes are added after the markup has been calculated. ICA § 421B.2 (3)(b), (4)(b).

Idaho- Cigarette

- 1) Idaho's minimum pricing laws exist within its sampling and access laws, where they prohibit the distribution of free or "below cost" tobacco products (defined to include cigarettes). I.C. §§ 39-5702. These laws directly address the distribution of cigarettes and tobacco products, but do not apply a presumptive "cost of doing business" or similar markup to the base "cost." I.C. §§ 39-5702.
- 2) The laws only regulate sales at the retailer level, and do not regulate wholesale prices. I.C. § 63-2551. This was verified through a phone conversation with Terry Pappin of the Idaho Dept. of Health and Welfare's Idaho Tobacco Project on January 17, 2014.
- 3) Idaho does not define "cost," nor have state courts or officials formally addressed this issue.

Idaho- OTP

- 1) Idaho's minimum pricing laws exist within its sampling and access laws, where they prohibit the distribution of free or "below cost" tobacco products. I.C. §§ 39-5702. These laws directly address the distribution of cigarettes and tobacco products, but do not apply a presumptive "cost of doing business" or similar markup to the base "cost." I.C. §§ 39-5702.
- 2) Idaho applies its minimum pricing laws to "tobacco products," which are defined to include cigars, pipes, snuff, smoking tobacco, tobacco papers, or smokeless tobacco. I.C. §§ 39-5702.
- 3) Idaho only regulates sales at the retailer level, and does not regulate wholesale prices. I.C. § 63-2551. This was verified through a phone conversation with Terry Pappin of the Idaho Dept. of Health and Welfare's Idaho Tobacco Project on January 17, 2014.
- 4) Idaho does not define "cost," nor have state courts or officials formally addressed this issue.

Indiana- Cigarette

- 1) Where distributors sell to other distributors, the seller is not required to apply the minimum markup. However, any subsequent sale to a retailer must abide by the state's minimum pricing laws. Burns Ind. Code Ann. § 24-3-2-5.
- 2) Any retailer who receives discounts typically only given to wholesalers must include the "cost to the distributor" in its computation of minimum price at the retail level. Burns Ind. Code Ann. § 24-3-2-2. We've interpreted this to mean a retailer is, in essence, acting as both wholesaler and retailer, and must apply both markups accordingly.
- 3) The statute uses the phrase "invoice cost of cigarettes **to the retailer.**" In practical terms, this is the minimum price the products can be purchased from the distributor (i.e. "minimum distributor price" or "MDP") Burns Ind. Code Ann. § 24-3-2-2(i)
- 4) The statute uses the phrase "full face value of any stamps which may be required by law," which we have interpreted to mean any applicable Federal, state, and local taxes that are not otherwise included in the invoice cost. Burns Ind. Code Ann. § 24-3-2-2(g).
- 5) Where one distributor sells to another distributor, the former is not required to apply the markup. However, any subsequent sale to retailer must abide by the state's minimum pricing laws. Burns Ind. Code Ann. § 24-3-2-5.
- 6) Cartage is included in the cost of doing business ONLY where it is paid for or performed by the distributor. Burns Ind. Code Ann. § 24-3-2-2(j).

Louisiana- Cigarette

- 1) In instances "where the retailer buys at wholesale and receives the wholesalers' profits and discounts on merchandise to be sold at retail," both the wholesaler and retailer markup are to be applied to the cost of doing business. LSA-R.S. 51:421(H)
- 2) The statute uses the term "invoice cost, or the replacement cost, of the merchandise to the retailer." In practical terms, this is the minimum price the products can be purchased from the wholesaler ("minimum wholesaler price" or "MWP"). Additionally, it is assumed that applicable taxes have been applied at the wholesale level; however, where taxes have not already been included for any reason, they are to be included here.
- 3) Trade discounts do not include customary discounts for cash payments, nor "discounts from the state or any governmental agency allowed for the payment of collection of any taxes." LSA-R.S. 51:421(G)(1)
- 4) In all instances, regardless of party, freight charges are only added if they are not already included in the invoice or replacement cost of the cigarettes. LSA-R.S. 51:421(F)(2)(a)
- 5) Cartage is only applied if performed or paid for by the respective party. LSA-R.S. 51:421(F)(2)(b)
- 6) The statute uses the phrase "[a]ny existing tobacco stamp excise tax," which we have reduced to "taxes." LSA-R.S. 51:421(G)(2)(c)
- 7) The markup is applied as a percentage of the total of: the cost to the respective wholesaler or retailer; and applicable freight charges, cartage, and taxes. LSA-R.S. 51:421(G)(2)(d)

Massachusetts- Cigarette

- 1) When a wholesaler who acquires cigarettes from the manufacturer sells them at retail, it shall apply both the wholesaler and retailer cost of doing business. Mass. Ann. Laws ch. 64C, § 13(g).
- 2) Sales at the retail level include both traditional retailers and chain stores. Mass. Ann. Laws ch. 64C, § 13(g). Additionally, any retailer who receives discounts typically only given to wholesalers must include the wholesaler's "cost of doing business" in its computation of minimum price at the retail level. M.G.L.A. 64C § 13(d). We've interpreted this to mean a retailer is, in essence, acting as both wholesaler and retailer, and must apply both markups accordingly.
- 3) Chain Store "[...] shall mean any person or persons who own or maintain ten or more retail outlets in the commonwealth, having one hundred percent common ownership or any vending machine operator who operates vending machines in twenty-five or more locations." ALM GL ch. 64C, § 13(c).
- 4) A retailer's basic cost is calculated using the invoice or the replacement cost of the cigarettes to the retailer. M.G.L.A. 64C § 13(a). In practical terms, this is the minimum price the products can be purchased from the wholesaler ("minimum wholesale price" or "MWP").
- 5) A trade discount must be non-discriminatory, deducted from the invoice cost of cigarettes, and listed on the invoice as a trade discount in order to qualify as a trade discount under the law. 2002 Mass. Tax LEXIS 86. Trade discounts may not include rebates or any other discounts offered after the original invoice, such as the discounts offered under buy-down or master-type promotional programs. 2002 Mass. Tax LEXIS 86. Trade discounts do not include customary discounts for cash payments. M.G.L.A. 64C § 13(a, c).
- 6) Per Mass. Ann. Laws ch. 64C, § 13(d), the presumed cost to the retailer is 25% of the basic cost of cigarettes, while 830 Mass. Code Regs. 64C.14.1(2) lists the presumed costs at 12.4%. The discrepancy in markup is due to a regulation that has not been updated to reflect the correct, statutory presumptive markup, per a telephone conversation with the Cigarette Tax Unit of the Department of Revenue of Massachusetts.
- 7) Cartage is only to be included in the cost of doing business if it is paid for or performed by the wholesaler. M.G.L.A. 64C § 13(c).

Massachusetts- OTP

- 1) Massachusetts's definition of cigarettes was specifically broadened to include little cigars in 2008. G.L. c. 62C, G.L. c. 64C, and G.L. c. 64H. A Dept. of Revenue ruling specifically applies the existing cigarette pricing scheme to little cigars under this new definition. MA Dept. of Revenue, "TIR 08-9: Changes in Law Relating to Tobacco Sales under G.L. c. 62C, G.L. c. 64C, and G.L. c. 64H," July 23, 2008.
- 2) When a wholesaler who acquires little cigars from the manufacturer sells them at retail, it shall apply both the wholesaler and retailer cost of doing business. Mass. Ann. Laws ch. 64C, § 13(g).
- 3) Sales at the retail level include both traditional retailers and chain stores. Mass. Ann. Laws ch. 64C, § 13(g). Additionally, any retailer who receives discounts typically only given to wholesalers must include the wholesaler's "cost of doing business" in its computation of minimum price at the retail level. M.G.L.A. 64C § 13(d). We've interpreted this to mean a retailer is, in essence, acting as both wholesaler and retailer, and must apply both markups accordingly.
- 4) A retailer's basic cost is calculated using the invoice or the replacement cost of the little cigars to the retailer. M.G.L.A. 64C § 13(a). In practical terms, this is the minimum price the products can be purchased from the wholesaler ("minimum wholesale price" or "MWP").
- 5) A trade discount must be non-discriminatory, deducted from the invoice cost of cigarettes, and listed on the invoice as a trade discount in order to qualify as a trade discount under the law. 2002 Mass. Tax LEXIS 86. Trade discounts may not include rebates or any other discounts offered after the original invoice, such as the discounts offered under buy-down or master-type promotional programs. 2002 Mass. Tax LEXIS 86. Trade discounts do not include customary discounts for cash payments. M.G.L.A. 64C § 13(a, c).
- 6) Per Mass. Ann. Laws ch. 64C, § 13(d), the presumed cost to the retailer is 25% of the basic cost of little cigars, while 830 Mass. Code Regs. 64C.14.1(2) lists the presumed costs at 12.4%. The discrepancy in markup is due to a regulation that has not been updated to reflect the correct, statutory presumptive markup, per a telephone conversation with the Cigarette Tax Unit of the Department of Revenue of Massachusetts.
- 7) Cartage is only to be included in the cost of doing business if it is paid for or performed by the wholesaler. M.G.L.A. 64C § 13(c).

Maryland- Cigarette

- 1) When a retailer gets discounts normally only afforded wholesalers, the cost to the retailer must include the cost to the wholesaler. MD. Code Ann. § 11-503(b).
- 2) When a wholesaler sells cigarettes to another wholesaler, the seller must apply a one percent markup. MD. Code Ann. § 11-503(c)(1). Most states with minimum pricing schemes do not apply a markup between wholesalers.
- 3) In calculating the retailer's basic cost, the invoice cost to the retailer includes the cost to a wholesaler. MD. Code Ann. § 11-501. In practical terms, the retailer's "invoice cost" is the minimum price the products can be purchased from the wholesaler ("minimum wholesaler price" or "MWP").
- 4) Freight charges are added as part of the basic cost calculation only if they aren't already included in the invoice cost. MD. Code Ann. § 11-501.

Maine- Cigarette

- 1) Any retailer who receives discounts typically only given to wholesalers must include the wholesaler's "cost of doing business" in its computation of minimum price at the retail level. 10 M.R.S.A. § 1202(8).
- 2) What we have termed an "integrated manufacturer" is a manufacturer that is also involved at the wholesaler and/or retailer level. Here, it is described as a retailer who "sells at retail any merchandise which is the product of his or its own manufacture." 10 M.R.S.A. § 1202(1).
- 3) A retailer's basic cost is calculated using the "invoice cost of the merchandise to the retailer." 10 M.R.S.A. § 1202(1). In practical terms, this is the minimum price the products can be purchased from the wholesaler ("minimum wholesale price" or "MWP").
- 4) Trade discounts do not include customary discounts for cash payments. 10 M.R.S.A. § 1202(1-2).
- 5) Where a retailer is also the manufacturer, both the wholesaler and retailer's respective markups are included in the manufacturer's cost of doing business. 10 M.R.S.A. § 1202(8).
- 6) In all instances, regardless of party, freight charges are only added if they are not already included in the invoice or replacement cost of the cigarettes. 10 M.R.S.A. § 1202(1-2).
- 7) Cartage is only applied if performed or paid for by that particular party. 10 M.R.S.A. § 1202(1-2).
- 8) The markup is applied as a percentage of the "total cost at the [wholesale or] retail outlet" (the sum of the cost to the respective party, freight charges, and cartage). 10 M.R.S.A. § 1202(1-2).

Minnesota- Cigarette

- 1) When wholesaler sells cigarettes to any other wholesaler, the former shall not be required to include in the selling price to the latter the wholesaler's "cost of doing business." Minn. Stat. Ann. § 325D.35.
- 2) Any retailer who receives discounts typically only given to wholesalers must include the wholesaler's "cost of doing business" in its computation of minimum price at the retail level. Minn. Stat. Ann. § 325D.32.Subd. 11.(c). We've interpreted this to mean a retailer is, in essence, acting as both wholesaler and retailer, and must apply both markups accordingly.

- 3) The basic cost to the retailer includes the gross invoice cost from the wholesaler. In practical terms, this is the minimum price the products can be purchased from the wholesaler (“minimum wholesale price” or “MWP”). Minn. Stat. Ann. § 325D.32.Subd. 9. While the taxes will likely have been paid at the wholesale level, any taxes not paid at the wholesale level must be applied here.
- 4) The statutory definition of “basic cost” includes the “full face value of any ...fee act of this state, unless included by the manufacturer in the list price.” While there is no further clarification within the statute of applicable fees, a Minnesota Dept. of Commerce public memo notes the application of a “non-settlement fee,” which is a fee applied to the cigarettes of manufacturers not participating in the settlement agreement established in *State v. Philip Morris Inc.*, No. C1-94-8565 (Minnesota District Court, Second Judicial District). MN Dept of Commerce, “Minnesota Minimum Legal Cigarette Prices as of August, 2011,” July, 28, 2011; M.S.A. § 297F.24. Additional fees include a Health Impact Fee. M.S.A. § 256.9658
- 5) The cost of cartage is only applied where the wholesaler pays for or performs cartage to the retailer. Minn. Stat. Ann. § 325D.32.Subd. 10.(b).

Mississippi- Cigarette

- 1) Where wholesalers sell to other wholesalers, the seller is not required to apply the minimum markup. However, any subsequent sale by the purchasing wholesaler to a retailer must abide by the state’s minimum pricing laws. 75-23-5. Miss. Code Ann. § 75-23-11.
- 2) Any retailer who receives discounts typically only given to wholesalers must include the “cost to the wholesaler” in its computation of minimum price at the retail level. Miss. Code Ann. § 75-23-5(l)(iii). We’ve interpreted this to mean a retailer is, in essence, acting as both wholesaler and retailer, and must apply both markups accordingly.
- 3) Trade discounts do not include the customary discounts for cash payments. Miss. Code Ann. § 75-23-5.

Montana- Cigarette

- 1) When wholesaler sells cigarettes to any other wholesaler, the former shall not be required to include in his selling price to the latter “cost of the wholesaler.” Mont. Code Ann. § 16-10-201.
- 2) Any retailer who receives discounts typically only given to wholesalers must include the wholesaler’s “cost of doing business” in its computation of minimum price at the retail level. Mont. Code Ann. § 16-10-103(4)(c). We’ve interpreted this to mean a retailer is, in essence, acting as both wholesaler and retailer, and must apply both markups accordingly.
- 3) The basic cost to the retailer includes the invoice cost from the wholesaler. In practical terms, this is the minimum price the products can be purchased from the wholesaler (“minimum wholesale price” or “MWP”). Mont. Code Ann. § 16-10-103.
- 4) The taxes are not included in the basic cost formula. Instead, they are added to the basic cost prior to applying the cost of doing business. Mont.Admin.R. 42.31.308.
- 5) The cost of doing business is multiplied by the sum of the basic cost of cigarettes and applicable state and federal taxes. Mont.Admin.R. 42.31.308.
- 6) The cost of cartage is only applied where the wholesaler pays for or performs cartage to the retailer. Mont. Code Ann. § 16-10-103.

Nebraska- Cigarette

- 1) When wholesaler sells cigarettes to any other wholesaler, the former shall not be required to include in his selling price to the latter “cost of the wholesaler.” Neb. Rev. Stat. § 59-1507.
- 2) Any retailer who receives discounts typically only given to wholesalers must include the wholesaler’s “cost of doing business” in its computation of minimum price at the retail level. Neb. Rev. Stat. § 59-1504. We’ve interpreted this to mean a retailer is, in essence, acting as both wholesaler and retailer, and must apply both markups accordingly.
- 3) While most states dictate that a party can use either the invoice OR replacement cost, Nebraska requires parties to utilize only the replacement cost. Neb.Rev.St. § 59-1502
- 4) While most states dictate that a party can use either the invoice OR replacement cost, Nebraska requires parties to utilize only the replacement cost. The statute uses the term “replacement cost of cigarettes to the retailer.” In practical terms, this is the minimum price the products can be purchased from the wholesaler (“minimum wholesale price” or “MWP”). Additionally, it is assumed that applicable taxes have been applied at the wholesale level; however, where taxes have not already been included for any reason, they are to be included as part of the basic cost to the retailer. Neb.Rev.St. § 59-1502.
- 5) Cartage is to only be applied if performed or paid for (in any part) by the retailer. Where a wholesaler is also a retailer, the wholesaler is to apply cartage to the “cost of the retailer” when making sales at the consumer level. 316 Neb. Admin. Code § 59.009.

New Jersey- Cigarette

- 1) When wholesaler sells cigarettes to any other wholesaler, the former shall not be required to include in his selling price to the latter "cost of the wholesaler." N.J. Stat. ann. § 56: 7-24.
- 2) Any retailer who receives discounts typically only given to wholesalers must include the wholesaler's "cost of doing business" in its computation of minimum price at the retail level. N.J. Stat. ann. § 56: 7-21. We've interpreted this to mean a retailer is, in essence, acting as both wholesaler and retailer, and must apply both markups accordingly.
- 3) The statute provides that the basic cost to the retailer includes the invoice cost of cigarettes to the retailer, which, in practical terms, is the minimum price the products can be purchased from the wholesaler ("minimum wholesale price" or "MWP"). N.J. Stat. ann. § 56: 7-21.
- 4) Trade discounts exclude special, extraordinary, or anticipatory discounts. The presumptive amount for trade normal cash discounts is 2% of the invoice cost or replacement cost of cigarettes. N.J. Admin. Code § 18:6-1.1.

Nevada- Cigarette

- 1) The statute uses the term "allowances," which we have written as "trade discounts" for consistency. The maximum amount of discount allowed is 2.5%. Nev. Rev. Stat. Ann. § 370.005.
- 2) The statute uses the phrase "...full value of any cigarette revenue stamps that are affixed to the packages, packets or containers of cigarettes," which we have interpreted to mean any applicable state, local, and federal taxes where not already included by the manufacturer in the list price. Nev. Rev. Stat. Ann. § 370.005.
- 3) Nevada only regulates cigarette prices at the wholesale level. N.R.S. 370.027.

New York- Cigarette

- 1) Where stamping agents sell to other stamping agents, there is no markup added to the minimum price of cigarettes. N.Y. Comp. Codes R. & Regs. tit. 20, § 82.2; N.Y. Tax Law § 485(d).
- 2) The minimum price that a wholesaler can sell to a chain store is equivalent to the price of an agent when selling directly to a chain store. N.Y. Tax Law § 483(b)(1)(B).
- 3) The wholesaler's minimum price to a retailer (3.875%) is equivalent to a stamping agent's minimum price to a retailer (3.875%). N.Y. Tax Law § 483(b)(1-2).
- 4) Where a wholesaler sells directly to a consumer, the minimum price is the same as if a retailer sells to a consumer. 20 NYCRR §82.3(b)(1)(ii).
- 5) The minimum price that a wholesaler can sell to another wholesaler is the same as the minimum price that a stamping agent can sell to wholesaler. N.Y. Tax Law § 485(c). In many states, there is no required wholesaler-to-wholesaler markup.
- 6) While many states define basic cost to include the invoice or replacement cost to a respective party, New York defines "basic cost" to include the invoice cost of the product to agent when purchasing from the manufacturer (or the "manufacturer's invoice/replacement cost"), rather than the invoice cost to each respective party. As such, every party's "basic cost" is the same, regardless of whom they are purchasing from. Additionally, New York's pricing scheme centers around stamping agent, and his or her cost. N.Y. Tax Law § 483. As such, the agent's "cost of doing business" is included at every level of pricing, even where an agent isn't directly involved.
- 7) The statute uses the phrase "full face value of any stamps which may be required by law," which we have interpreted to mean any applicable Federal, state, and local taxes that are not otherwise included in the invoice cost. N.Y. Tax Law § 483(a)(1).
- 8) Trade discounts are exclusive of any discounts for cash payment. N.Y. Tax Law § 483(a)(1).
- 9) As part of the agent's "cost of doing business," New York applies a monetary charge of "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." We have illustrated the minimum price using the standard package of 20 cigarettes. N.Y. Tax Law § 483(b)(1)(B).

New York- OTP

- 1) Any Federal excise taxes paid by the manufacturer are included in the wholesale price, as they are part of the manufacturer's invoice price. 20 NYCRR 89.2(b)(1).

Ohio- Cigarette

- 1) Any wholesaler who operates as a retailer shall, in determining "cost to the retailer", first compute the "cost to the wholesaler" and use that value as the minimum wholesale price for the purposes of computing minimum retail price. Ohio Rev. Code Ann. § 1333.11.
- 2) A retailer's basic cost is calculated using the invoice or the replacement cost of the cigarettes to the retailer. R.C. § 1333.11. In practical terms, this is the minimum price the products can be purchased from the wholesaler ("minimum wholesale price" or "MWP").
- 3) Trade discounts do not include discounts for cash payments. Ohio Rev. Code Ann. § 1333.11.
- 4) The retailer's presumptive markup is to be applied to the MPW, exclusive of the value of any county cigarette taxes that may have been paid. R.C. § 1333.11.
- 5) Cartage is to only be applied where purchases are made from a cash and carry wholesaler. R.C. § 1333.11.

Oklahoma- Cigarette

- 1) When a wholesaler sells to another wholesaler or sub-jobber, the minimum price is the basic cost of cigarettes, and no markup is added. However, when the purchasing wholesaler or sub-jobber subsequently sells to a retailer, normal wholesaler markups apply. Okla. Stat. tit. 68, §§ 331-32 (2011).
- 2) Where a retailer receives discounts typically afforded a wholesaler, the retailer must calculate a minimum cost as if it were purchased from a wholesaler (e.g. price must reflect wholesaler's statutory minimum price). Okla. Stat. tit. 68, § 330(c).
- 3) The statute uses the term "invoice cost of cigarettes and tobacco products to the retailer," which, in practical terms, is the minimum price the products can be purchased from the wholesaler. Okla. Stat. tit. 68, § 330(m) (2011).
- 4) Trade discounts do NOT include discounts for cash payments. 68 Okl.St. Ann. § 327
- 5) State and federal taxes are only added if not already included in the invoice cost. Okla. Stat. tit. 68, § 327(m).
- 6) Cartage is included if performed or paid for by that particular party. 68 Okl.St. Ann. § 329

Oklahoma- OTP

- 1) Oklahoma applies its OTP minimum markup scheme to the following OTP: bidis, cigars, cheroots, stogies, smoking tobacco (including pipe or cigarette), chewing tobacco; and any other articles or products made of tobacco or any substitute therefor. 68 Okl.St. Ann. § 327
- 2) When a wholesaler sells to another wholesaler or sub-jobber, the minimum price is the basic cost of cigarettes, and no markup is added. However, when the purchasing wholesaler or sub-jobber subsequently sells to a retailer, normal wholesaler markups apply. Okla. Stat. tit. 68, §§ 331-32 (2011).
- 3) Where a retailer receives discounts typically afforded a wholesaler, the retailer must calculate a minimum cost as if it were purchased from a wholesaler (e.g. price must reflect wholesaler's statutory minimum price). Okla. Stat. tit. 68, § 330(c).
- 4) Trade discounts do NOT include discounts for cash payments. 68 Okl.St. Ann. § 327
- 5) The statute uses the term "invoice cost of cigarettes and tobacco products to the retailer," which, in practical terms, is the minimum price the products can be purchased from the wholesaler. Okla. Stat. tit. 68, § 330(m) (2011).
- 6) State and federal taxes are only added if not already included in the invoice cost. Okla. Stat. tit. 68, § 327(m).
- 7) Cartage is included if performed or paid for by that particular party. 68 Okl.St. Ann. § 329.

Pennsylvania- Cigarette

- 1) When a wholesaler sells to another wholesaler, the minimum price is the basic cost of cigarettes (no wholesaler markup is added). However, when the purchasing wholesaler subsequently sells to a retailer, normal wholesaler markups apply. 72 Pa. Cons. Stat. § 219-A.
- 2) Where a stamping agent sells directly to the consumer (acts as a retailer), then the agent must calculate the minimum sales price as a normal retailer would, applying all standard markups, including agent (1.7%), wholesaler (4%), and retailer (6%). 72 Pa. Cons. Stat. § 202-A.
- 3) "Manufacturer's list price" means the gross price of the cigarettes from the manufacturer, and includes any Federal tax, and freight or handling charges, if not already included. 72 P.S. § 202-A
- 4) Wholesalers, when calculating their minimum price, must include the cost to the stamping agent. Therefore, the invoice or replacement cost to the wholesaler is the minimum price of the stamping agent (and inherently includes the agent markup). 72 P.S. § 202-A; Pennsylvania Department of Revenue FAQ, Jan 2, 2004. (https://revenue-pa.custhelp.com/app/answers/detail/a_id/1326/~what-is-the-minimum-price-that-can-be-charged-for-cigarettes%3F).
- 5) Retailers, when calculating their minimum price, must include the cost to the stamping agent and wholesaler. 61 Pa. Code § 76.1. Therefore, the invoice or replacement cost to the retailer is the minimum price of the wholesaler (and inherently includes both markups). 72 P.S. § 202-A; Pennsylvania Department of Revenue FAQ, Jan 2, 2004. (https://revenue-pa.custhelp.com/app/answers/detail/a_id/1326/~what-is-the-minimum-price-that-can-be-charged-for-cigarettes%3F).
- 6) The statute uses the phrase "full face value of any stamps which may be required by law," which we have interpreted to mean any applicable excise taxes. These are only added to the manufacturer's list price if the list price does not already include them. 72 Pa. Cons. Stat. § 202-A.

Pennsylvania- OTP

- 1) Pennsylvania defines cigarettes to include little cigars, a product we have counted as OTP for purposes of this study. As such, we consider Pennsylvania to have a minimum markup scheme for OTP. 72 Pa. Cons. Stat. § 202-A.
- 2) When a wholesaler sells to another wholesaler, the minimum price is the basic cost of cigarettes (no wholesaler markup is added). However, when the purchasing wholesaler subsequently sells to a retailer, normal wholesaler markups apply. 72 Pa. Cons. Stat. § 219-A.
- 3) Where a stamping agent sells directly to the consumer (acts as a retailer), then the agent must calculate the minimum sales price as a normal retailer would, applying all standard markups, including agent (1.7%), wholesaler (4%), and retailer (6%). 72 Pa. Cons. Stat. § 202-A.
- 4) "Manufacturer's list price" means the gross price of the cigarettes from the manufacturer, and includes any Federal tax, and freight or handling charges, if not already included. 72 P.S. § 202-A
- 5) Wholesalers, when calculating their minimum price, must include the cost to the stamping agent. Therefore, the invoice or replacement cost to the wholesaler is the minimum price of the stamping agent (and inherently includes the agent markup).

- 72 P.S. § 202-A; Pennsylvania Department of Revenue FAQ, Jan 2, 2004. (https://revenue-pa.custhelp.com/app/answers/detail/a_id/1326/~/what-is-the-minimum-price-that-can-be-charged-for-cigarettes%3F).
- 6) Retailers, when calculating their minimum price, must include the cost to the stamping agent and wholesaler. 61 Pa. Code § 76.1. Therefore, the invoice or replacement cost to the retailer is the minimum price of the wholesaler (and inherently includes both markups). 72 P.S. § 202-A; Pennsylvania Department of Revenue FAQ, Jan 2, 2004. (https://revenue-pa.custhelp.com/app/answers/detail/a_id/1326/~/what-is-the-minimum-price-that-can-be-charged-for-cigarettes%3F).
 - 7) The statute uses the phrase “full face value of any stamps which may be required by law,” which we have interpreted to mean any applicable excise taxes. These are only added to the manufacturer’s list price if the list price does not already include them. 72 Pa. Cons. Stat. § 202-A.

Rhode Island- Cigarette

- 1) Where wholesalers sell to other wholesalers, the seller is not required to apply the minimum markup. However, any subsequent sale by the purchasing wholesaler to a retailer must abide by the state’s minimum pricing laws. R.I. Code R. § 46-050-008. Wholesalers that make sales at the retail level is required to sell cigarettes at the retail minimum cost. CRIR 46-050-008.
- 2) Rhode Island uses the term “base cost,” but for consistency, we’ve applied the term “basic cost.” CRIR 46-050-008.
- 3) A retailer’s basic cost is calculated using the “invoice cost, or the replacement cost, of the merchandise to the retailer.” R.I. Code R. § 46-050-008. In practical terms, this is the minimum price the products can be purchased from the wholesaler (“minimum wholesale price” or “MWP”).
- 4) Trade discounts do not include the customary discounts for cash payments. R.I. Code R. § 46-050-008.
- 5) The basic cost determination includes the inclusion of the cigarette excise tax imposed by Rhode Island’s Cigarette Taxation laws, R.I. Gen. Laws § 44-20-1 et al.
- 6) Freight charges are added where not already included in the invoice cost. R.I. Code R. § 46-050-008.
- 7) Cartage is only added as part of the cost of doing business if it is performed or paid for by that party. R.I. Code R. § 46-050-008.

South Dakota- Cigarette

- 1) When wholesaler sells cigarettes to any other wholesaler, the former shall not be required to include in his selling price to the latter “cost of the wholesaler.” S.D. Codified Laws § 37-10-4.
- 2) Any retailer who receives discounts typically only given to wholesalers must include the wholesaler’s “cost of doing business” in its computation of minimum price at the retail level. S.D. Codified Laws § 37-10-7. We’ve interpreted this to mean a retailer is, in essence, acting as both wholesaler and retailer, and must apply both markups accordingly.
- 3) The statute uses the term “invoice cost, or the replacement cost, of the merchandise to the retailer.” In practical terms, this is the minimum price the products can be purchased from the wholesaler (“minimum wholesale price” or “MWP”). Additionally, while the applicable taxes are paid for at the wholesale level, and therefore built into the wholesaler’s minimum price/invoice cost to the retailer, where taxes have not already been included for any reason, they are to be included as part of the retailer’s basic cost. S.D. Codified Laws § 37-10-1.
- 4) Cartage is **only** to be included if it is, “...performed or paid for by the wholesaler.” S.D. Codified Laws § 37-10-10.

Tennessee- Cigarette

- 1) Included in the formula for the basic cost for retailers are additional fees required by the state’s tobacco tax laws (title 67, chapter 4, part 10), if not already included by the manufacturer.” Tenn. Code Ann. § 47-25-302.
- 2) Unlike most states, Tennessee does not regulate prices at the wholesale level. Its minimum pricing scheme applies only to retailers. Tenn. Dep’t of Revenue, “Unfair Cigarette Sales” (April 1998).

Washington- Cigarette

- 1) Washington’s minimum pricing law applies to any “person licensed to sell cigarettes under [its cigarette tax chapter].” Rev. Code Wash. § 19.91.300. As such, we’ve applied the minimum pricing laws to both wholesalers and retailers, as licensed parties under the cigarette tax chapter. Rev. Code Wash. § 82.24.010 et seq.
- 2) “Actual price paid” refers to whatever price the purchasing party (wholesaler or retailer) actually paid at the time that he purchased the cigarettes from the seller (manufacturer, wholesaler, or retailer). The invoice serves as evidence of actual price paid. No exceptions are made in cases of liquidation, clearance, etc.

Wisconsin- Cigarette

- 1) No cost of doing business is added when determining the minimum price “for sales at wholesale between wholesalers.” Wis. Stat. §100.30.
- 2) The statute provides that distributors are not allowed to factor in any discounts when calculating “cost to the distributor.” Where distributors sell to wholesalers, the seller is not required to add the “cost of doing business” when determining minimum sales price. Wis. Stat. §100.30; Wis. Adm. Code ATPC §105.02

- 3) Where retailer receives discounts typically only given to wholesalers, the statute provides that, "...cost to the retailer and cost to wholesaler...shall both be applied, including the markup requirements." Wis. Adm. Code ATCP §105.003 We've interpreted this to mean a retailer is, in essence, acting as both wholesaler and retailer, and must apply both markups accordingly.
- 4) Wisconsin defines a "multiple retailer" as "any person who acquires stamped cigarettes from manufacturers or permittees, stores them and sells them to consumers through 10 or more retail outlets which he or she owns and operates within or without this state."
- 5) Wisconsin distinguishes between a traditional (or "non-manufacturing/producing") retailer, and a "manufacturer or producer of cigarettes and other tobacco products... who acts as both a wholesaler and a retailer." We have categorized the latter parties as "integrated manufacturers." (See also: Maine)
- 6) A retailer's basic cost is calculated using the invoice or the replacement cost of the cigarettes to the retailer. Wis. Stat. § 100.30. In practical terms, this is the minimum price the products can be purchased from the wholesaler ("minimum wholesale price" or "MWP").
- 7) Trade discounts exclude customary discounts for cash. Wis. Stat. §100.30.
- 8) Wisconsin requires that "any excise taxes imposed on the sale...prior to the sale at retail," be added to the cost, where they have not already been included in the invoice cost. We have interpreted this to mean all Federal, State, and Local excise taxes required by law. Wis. Stat. §100.30.
- 9) In determining the minimum sales price, an integrated manufacturer must compound the markup percentages when determining the "cost of doing business." Here, the markup percentages to be applied are the 3% of wholesalers, and the 6% of retailers, totaling 9.18%. Wis. Adm. Code ATCP 105.005.
- 10) Wholesalers and retailers must include "any cost incurred for transportation and any other charges not otherwise included" in their respective cost determinations. Wis. Stat. §100.30.
- 11) In determining the minimum sales price, a multiple retailer must compound the markup percentages when determining the "cost of doing business." Here, the markup percentages to be applied are the 3% of wholesalers, and the 6% of retailers, totaling 9.18%. Wis. Adm. Code ATCP 105.004.

Wisconsin- OTP

- 1) Wisconsin applies its minimum markup pricing regulations to OTP, including cigars, pipe tobacco, chewing tobacco, moist and dry snuff, snuff flour, cavendish, plug and twist tobacco, cheroots, stogies, and periques. Wis. Stat. §139.75.
- 2) No cost of doing business is added when determining the minimum price "for sales at wholesale between wholesalers." Wis. Stat. §100.30.
- 3) Where retailer receives discounts typically only given to wholesalers, the statute provides that, "...cost to the retailer and cost to wholesaler...shall both be applied, including the markup requirements." Wis. Adm. Code ATCP §105.003 We've interpreted this to mean a retailer is, in essence, acting as both wholesaler and retailer, and must apply both markups accordingly.
- 4) The statute provides that distributors are not allowed to factor in any discounts when calculating "cost to the distributor." Where distributors sell to wholesalers, the seller is not required to add the "cost of doing business" when determining minimum sales price. Wis. Stat. §100.30; Wis. Adm. Code ATCP §105.02
- 5) Wisconsin defines a "multiple retailer" as "any person who acquires stamped cigarettes from manufacturers or permittees, stores them and sells them to consumers through 10 or more retail outlets which he or she owns and operates within or without this state."
- 6) Wisconsin distinguishes between a traditional (or "non-manufacturing/producing) retailer, and a "manufacturer or producer of cigarettes and other tobacco products... who acts as both a wholesaler and a retailer." We have categorized these parties as "integrated manufacturers."
- 7) A retailer's basic cost is calculated using the invoice or the replacement cost of the cigarettes to the retailer. Wis. Stat. § 100.30. In practical terms, this is the minimum price the products can be purchased from the wholesaler ("minimum wholesale price" or "MWP").
- 8) Trade discounts exclude customary discounts for cash. Wis. Stat. §100.30.
- 9) Wisconsin requires that "any excise taxes imposed on the sale...prior to the sale at retail," be added to the cost, where they have not already been included in the invoice cost. We have interpreted this to mean all Federal, State, and Local excise taxes required by law. Wis. Stat. §100.30.
- 10) In determining the minimum sales price, an integrated manufacturer must compound the markup percentages when determining the "cost of doing business." Here, the markup percentages to be applied are the 3% of wholesalers, and the 6% of retailers, totaling 9.18%. Wis. Adm. Code ATCP 105.005.
- 11) Wholesalers and retailers must include "any cost incurred for transportation and any other charges not otherwise included" in their respective cost determinations. Wis. Stat. §100.30.
- 12) In determining the minimum sales price, a multiple retailer must compound the markup percentages when determining the "cost of doing business." Here, the markup percentages to be applied are the 3% of wholesalers, and the 6% of retailers, totaling 9.18%. Wis. Adm. Code ATCP 105.004.

West Virginia- Cigarette

- 1) The invoice or replacement cost to the retailer is to be used in calculating the cost to the retailer. W. VA. Code Ann. § 47-11A-6. As retailers are typically purchasing from wholesalers, the invoice cost to the retailer will be the "minimum wholesaler price," or "MWP."
- 2) Customary cash discounts are not considered "trade discounts" for calculation purposes, and should not be subtracted from the invoice cost when calculating the cost to the wholesaler or retailer. W. VA. Code Ann. § 47-11A-6.

- 3) The statute uses the phrase “applicable taxes,” which we have interpreted as all federal, state, and local taxes that are not already included in the invoice cost. W. VA. Code Ann. § 47-11A-6.
- 4) Freight charges are only added to the invoice cost if they have not already included. W. VA. Code Ann. § 47-11A-6.

Local Footnotes

New York City, NY- Cigarettes

- 1) Where stamping agents sell to other stamping agents, there is no markup added to the minimum price of cigarettes. N.Y. Comp. Codes R. & Regs. tit. 20, § 82.2; N.Y. Tax Law § 485(d).
- 2) The minimum price that a wholesaler can sell to a chain store is equivalent to the price of an agent when selling directly to a chain store. N.Y. Tax Law § 483(b)(1)(B).
- 3) The wholesaler's minimum price to a retailer (3.875%) is equivalent to a stamping agent's minimum price to a retailer (3.875%). N.Y. Tax Law § 483(b)(1-2).
- 4) Where a wholesaler sells directly to a consumer, the minimum price is the same as if a retailer sells to a consumer. 20 NYCRR §82.3(b)(1)(ii).
- 5) The minimum price that a wholesaler can sell to another wholesaler is the same as the minimum price that a stamping agent can sell to wholesaler. N.Y. Tax Law § 485(c). In many states, there is no required wholesaler-to-wholesaler markup.
- 6) While many states define basic cost to include the invoice or replacement cost to a respective party, New York defines "basic cost" to include the invoice cost of the product to agent when purchasing from the manufacturer (or the "manufacturer's invoice/replacement cost"), rather than the invoice cost to each respective party. As such, every party's "basic cost" is the same, regardless of whom they are purchasing from. Additionally, New York's pricing scheme centers around stamping agent, and his or her cost. N.Y. Tax Law § 483. As such, the agent's "cost of doing business" is included at every level of pricing, even where an agent isn't directly involved.
- 7) The statute uses the phrase "full face value of any stamps which may be required by law," which we have interpreted to mean any applicable Federal, state, and local taxes that are not otherwise included in the invoice cost. N.Y. Tax Law § 483(a)(1).
- 8) Trade discounts are exclusive of any discounts for cash payment. N.Y. Tax Law § 483(a)(1).
- 9) As part of the agent's "cost of doing business," New York applies a monetary charge of "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." We have illustrated the minimum price using the standard package of 20 cigarettes. N.Y. Tax Law § 483(b)(1)(B).

New York City, NY- OTP

- 1) The statute uses the phrase "... full value of any stamps or taxes which may be required by law," which we have interpreted to mean any applicable state, local, and federal taxes where not already included by the manufacturer in the list price. New York City, New York, Municipal Code § 17-176

Providence, RI- Cigarettes

- 1) Where wholesalers sell to other wholesalers, the seller is not required to apply the minimum markup. However, any subsequent sale by the purchasing wholesaler to a retailer must abide by the state's minimum pricing laws. R.I. Code R. § 46-050-008. Wholesalers that make sales at the retail level is required to sell cigarettes at the retail minimum cost. CRIR 46-050-008.
- 2) Rhode Island uses the term "base cost," but for consistency, we've applied the term "basic cost." CRIR 46-050-008.
- 3) A retailer's basic cost is calculated using the "invoice cost, or the replacement cost, of the merchandise to the retailer." R.I. Code R. § 46-050-008. In practical terms, this is the minimum price the products can be purchased from the wholesaler ("minimum wholesale price" or "MWP").
- 4) Trade discounts do not include the customary discounts for cash payments. R.I. Code R. § 46-050-008.
- 5) The basic cost determination includes the inclusion of the cigarette excise tax imposed by Rhode Island's Cigarette Taxation laws, R.I. Gen. Laws § 44-20-1 et al.
- 6) Freight charges are added where not already included in the invoice cost. R.I. Code R. § 46-050-008.
- 7) Cartage is only added as part of the cost of doing business if it is performed or paid for by that party. R.I. Code R. § 46-050-008.



Appendix

Appendix Table 1: Minimum Pricing or Markup Rates for Cigarettes Across All Possible Parties in Pricing States, 2015

Blank (none) ; **MP** (minimum pricing state) ; * (markup applied only where ultimate distributing party acts as both wholesaler and retailer, and reflects a combined rate comprised of standard markups for those respective parties); **BC** (Basic Cost); **IRC** (Invoice or Replacement Cost); **GIC** (Gross Invoice Cost); **WMP** (Wholesale Minimum Price); **MLP** (Manufacturer's List Price); **SP** (Selling Price to other Retailers); **OTH** (Other); **COST** (Cost or Cost of the Product); **AP** (Actual Price Paid); **Int. Manuf.** (Integrated Manufacturers are manufacturers who sell directly to consumers, acting as manufacturer, distributor, and retailer)

	Stamping Agent	Wholesaler	Wholesaler – Cash & Carry	Distributor	Retailer	Dealer	Int. Manuf.	Any Person	Other
AK		2% MLP			4% MLP				
AR		4% BC			7.5% BC				
CA				6% IRC					
CO				MP		MP		MP	
CT	0.875% BC			4.875% BC		8% BC			
DE		5% BC	5% BC less \$0.02/carton						
DC		2% IRC	1.9% IRC		8% IRC				
HI				6% IRC					
ID					MP				
IN				4% BC	10% BC				
IA		4% BC			8% OTH				
LA		2% IRC			6% IRC				
ME		2% IRC			6% IRC		8% IRC*		
MD		5% BC	5% BC less \$0.02/carton		8% BC				
MA		2% BC			25% IRC				
MN		4% BC			8% BC				
MS		2% BC			6% BC				
MT		5% BC			10% WMP				
NE		4.75% BC			8% BC				
NJ		5.25% BC			8% BC				
NV		MP							
NY	0.875% or 1.50 % BC	3% BC			7% BC				
OH		3.5% IRC	3.5% IRC		8% IRC				
OK		2% BC			6% BC				
PA	1.70% BC	4% BC			6% BC				
RI		2% BC			6% BC				
SD		4% BC			8% BC				
TN					8% BC				
WA		MP			MP				
WI		3% IRC		3% MLP	6% IRC		9% SP*		9% MLP*
WV		4% IRC			7% IRC				

Note: Table includes only states with tobacco pricing laws. States not listed are those without minimum markup or pricing laws.

Appendix Table 2: Policy Factors That Increase the Base Cost of Cigarettes in Pricing States, 2015

✓ Yes Blank No

	Statutory Markup Applied	>1 Distributing Party Regulated	Taxes Applied	Cartage Applied	Other Costs Applied	TOTAL INCREASE FACTORS (Max: 5)
AK	✓	✓	✓			3
AR	✓	✓	✓			3
CA	✓					1
CO		✓				1
CT	✓	✓	✓	✓		4
DE	✓		✓		✓	3
DC	✓	✓	✓			3
HI	✓			✓	✓	3
ID	<i>Minimum Pricing state with no increase factors</i>					0
IN	✓	✓	✓	✓		4
IA	✓	✓	✓			3
LA	✓	✓	✓	✓	✓	5
ME	✓	✓		✓	✓	4
MD	✓	✓	✓		✓	4
MA	✓	✓	✓	✓		4
MN	✓	✓	✓	✓	✓	5
MS	✓	✓	✓	✓		4
MT	✓	✓	✓	✓		4
NE	✓	✓	✓	✓		4
NJ	✓	✓	✓	✓		4
NV			✓			1
NY	✓	✓	✓			3
OH	✓	✓	✓	✓		4
OK	✓	✓	✓	✓		4
PA	✓	✓	✓		✓	4
RI	✓	✓	✓	✓	✓	5
SD	✓	✓	✓	✓		4
TN	✓		✓		✓	3
WA		✓				1
WI	✓	✓	✓		✓	4
WV	✓	✓	✓		✓	4
TOTAL	27	25	25	15	11	

Note: Table includes only states with tobacco pricing laws. States not listed are those without minimum markup or pricing laws.

Appendix Table 3: Policy Factors That Decrease the Base Cost of Cigarettes in Pricing States, 2015

✓ Yes *Blank* No

	Below-Cost Coupons Allowed	Below-Cost Coupons Distributed to Consumers	Below-Cost Combination Sales Allowed	Trade Discounts May Reduce Cost	Trade Discounts Include Discount Programs	Competitor Price-Matching Allowed	TOTAL DECREASE FACTORS (Max: 6)
AK				✓			1
AR	✓	✓	✓			✓	4
CA	✓	✓		✓		✓	4
CO	✓	✓				✓	3
CT	✓		✓	✓		✓	4
DC	✓	✓				✓	3
DE	✓		✓	✓		✓	4
HI				✓		✓	2
IA	✓	✓	✓	✓		✓	5
ID	✓	✓					2
IN	✓	✓		✓		✓	4
LA	✓	✓		✓		✓	4
MA	✓	✓		✓		✓	4
MD	✓	✓	✓	✓		✓	5
ME	✓	✓		✓		✓	4
MN						✓	1
MS				✓		✓	2
MT			✓			✓	2
NE	✓	✓	✓			✓	4
NJ				✓		✓	2
NV				✓		✓	2
NY				✓		✓	2
OH	✓	✓		✓		✓	4
OK	✓	✓		✓	✓	✓	5
PA	✓	✓	✓			✓	4
RI	✓	✓		✓			3
SD				✓		✓	2
TN	✓	✓					2
WA	✓	✓					2
WI	✓	✓		✓	✓	✓	5
WV	✓	✓	✓	✓		✓	5
TOTAL	23	20	9	21	2	26	

Note: Table includes only states with tobacco pricing laws. States not listed are those without minimum markup or pricing laws.

Appendix Table 4: Total Cigarette Markup Across Standard Distribution Chain in Pricing States, 2015

Blank None -- Not Applicable/Addressed

Note: Table shows the total markup for a pack of cigarettes moving through a standard distribution chain. For purposes of this table, wholesaler and distributor have been collapsed, as have retailer and dealer, as these parties generally function in the same distribution capacity. While the “total markup” does not reflect how the mark-ups work together, or show against which specific base cost they are applied, it provides a general sense as to the ultimate markup consumers should see in each state. Table only includes states that regulate minimum pricing.

	Stamping Agent	Wholesaler/ Distributor	Retailer/ Dealer	TOTAL MARKUP
Nat'l Average Markup of States Where Distribution Level Regulated	1.15% (N=3)	3.67% (N=26)	8.02% (N=24)	12.84%
Nat'l Average Markup of All Markup States (N=27)	0.13%	3.53%	7.13%	10.79%
AK		2%	4%	6%
AR		4%	7.50%	11.5%
CA		6%		6%
CO	<i>Minimum Pricing state with no markup</i>			--
CT	0.875%	4.875%	8%	13.75%
DE		5%		5%
DC		2%	8%	10%
HI		6%		6%
ID	<i>Minimum Pricing state with no markup</i>			--
IN		4%	10%	14%
IA		4%	8%	12%
LA		2%	6%	8%
ME		2%	6%	8%
MD		5%	8%	13 %
MA		2%	25%	27%
MN		4%	8%	12%
MS		2%	6%	8%
MT		5%	10%	15%
NE		4.75%	8%	12.75%
NJ		5.25%	8%	13.25%
NV	<i>Minimum Pricing state with no markup</i>			--
NY	0.875%	3%	7%	10.875%
OH		3.50%	8%	11.5%
OK		2%	6%	8%
PA	1.70%	4%	6%	11.7%
RI		2%	6%	8%
SD		4%	8%	12%
TN			8%	8%
WA	<i>Minimum Pricing state with no markup</i>			--
WI		3%	6%	9%
WV		4%	7%	11%

Appendix Table 5: Legal Citations for State Laws Used to Create PATH Charts

	Year of Citation	Product Type	Cite(s)
AK	2005-2015	Cigarette	Alaska Stat. §§ 43.50.710-849
AR	2005-2015	Cigarette	ACA §§ 4-75-701 et seq; 175 00 CARR 001; <i>McLane Southern, Inc. v. Arkansas Tobacco Control Board</i> , 2010 Ark. 498
CA	2005-2015	Cigarette	Cal Bus & Prof Code § 17000 et seq; E & H Wholesale, Inc. v. Glaser Bros., 158 Cal.App.3d 728 (1984); Board of Equalization Publication 93 (Nov. 2010); Board of Equalization Publication 78 (June 2012)
CO	2005-2015	Cigarette	CRS 6-2-101; <i>Dikeou v. Food Distributors Ass'n</i> , 107 Colo. 38
CT	2005-2015	Cigarette	Conn. Gen. Stat §§ 12-326a-h
DC	2005-2015	Cigarette	D.C. Code §§ 28-4521 et seq.
DE	2005-2015	Cigarette	6 Del.C. §§ 2601 et seq.
HI	2005-2015	Cigarette	HRS § 481-1 et seq; <i>Island Tobacco Co., Ltd. v. R. J. Reynolds Tobacco Company</i> , 63 Haw. 289 (1981)
IA	2005-2015	Cigarette	ICA §§ 421B.1 et seq; Iowa Admin. Code 701-84.1(421B) – 84.7(421B); Iowa Dept. of Revenue, “Retailer’s Cigarette/Tobacco Permit - Commonly Asked Questions” (Dec. 2010).
ID	2005-2015	Cigarette	I.C. §§ 39-5702, 39-5707; IDAPA 35.01.10.010 - .011; I.C. § 63-2551.
ID	2005-2015	OTP	I.C. §§ 39-5702, 39-5707; IDAPA 35.01.10.010 - .011; I.C. § 63-2551.
IN	2005-2015	Cigarette	Burns Ind. Code Ann. § 24-3-2-1 et seq.
LA	2005-2015	Cigarette	LSA – R.S. 26:924; LSA – R.S. 51:421 et seq.
MA	2005-2015	Cigarette	ALM GL ch. 64C, §§ 12-21; 830 CMR 64C.14.1; 2002 Mass. Tax LEXIS 86
MA	2005-2015	OTP	ALM GL ch. 64C, §§ 12-21; 830 CMR 64C.14.1; MA Dept. of Revenue, TIR 08-9 (July 2008).
MD	2005-2015	Cigarette	MD. Code Ann. § 11-501, 503
ME	2005-2015	Cigarette	Me. Rev. Stat. Ann. Tit. 10 § 1202
MN	2005-2015	Cigarette	Minn. Stat. Ann. § 325D.32, .35; MN Dept of Commerce, “Minnesota Minimum Legal Cigarette Prices as of August, 2011” (July 28, 2011).
MS	2005-2015	Cigarette	Miss. Code Ann. § 75-23-5; Miss. Code Ann. § 75-23-11; Miss. Code Ann. § 75-23-15
MT	2005-2015	Cigarette	Mont. Code Ann. § 16-10-103; Mont. Code Ann. § 16-10-201
NE	2005-2015	Cigarette	Neb. Rev. Stat. § 59-1502 – 1507; 316 Neb. Admin. Code § 59.009
NJ	2005-2015	Cigarette	N.J. Stat. ann. § 56: 7-19; 21; 22; 24; 26.
NV	2005-2015	Cigarette	Nev. Rev. Stat. Ann. § 370.005.; Nev. Rev. Stat. Ann. § 370.027.
NY	2005-2015	Cigarette	NY CLS Tax §§ 483-489; 20 NYCRR §§ 80.1—88.2; NY Dept of Taxation Publication 508 (July, 2010); NY Dept of Taxation Publication 509 (June 2012)
NY	2005-2015	OTP	20 NYCRR 89.2; N.Y. Tax Law § 470
OH	2005-2015	Cigarette	ORC Ann. §§ 1333.11-21
OK	2005-2015	Cigarette	68 Okl. St. §§ 326-344
OK	2005-2015	OTP	68 Okl. St. §§ 326-344
PA	2005-2015	Cigarette	72 P.S.§§ 202-A–230-A; 61 Pa. Code §§ 71.4; 76.1 – 76.3
PA	2005-2015	OTP	72 P.S.§§ 202-A–230-A; 61 Pa. Code §§ 71.4; 76.1 – 76.3
RI	2005-2015	Cigarette	R.I. Gen. Laws § 16-13-1, -2; R.I. Code R. § 46-050-008
RI	2005-2015	OTP	R.I. Gen. Laws § 16-13-1, -2; R.I. Code R. § 46-050-008
SD	2005-2015	Cigarette	S.D. Codified Laws § 37-10-1, -4, -6, -7, -10; ARSD 64:44:01:01 - :02
TN	2005-2015	Cigarette	Tenn. Code Ann. § 47-25-302; Tenn. Dep’t of Revenue, “Unfair Cigarette Sales” (April 1998).
WA	2005-2015	Cigarette	ARCW § 19.91.300; ARCW 82.24.510
WI	2005-2015	Cigarette	Wis. Stat. §100.30; Wis. Stat. §139.30; Wis. Adm. Code ATCP 105.001 - .10
WI	2005-2015	OTP	Wis. Stat. §100.30; Wis. Stat. §139.30, .75; Wis. Adm. Code ATCP 105.001 - .10
WV	2005-2015	Cigarette	W. VA. Code Ann. § 47-11A-6

Appendix Table 6: Legal Citations for Local Laws Used to Create PATH Charts

	Year of Citation	Product Type	Cite(s)
Providence, RI	2015	Cigarette	R.I. Gen. Laws § 16-13-1,-2; R.I. Code R. § 46-050-008; Providence, Rhode Island, Municipal Code 14-300 et seq.
New York City, NY	2015	Cigarette	NY CLS Tax §§ 483-489; 20 NYCRR §§ 80.1—88.2; New York City, New York, Municipal Code §13-01, et seq; New York City, New York, Municipal Code §17-176, et seq
New York City, NY	2015	OTP	NY CLS Tax §§ 483-489; 20 NYCRR §§ 80.1—88.2; New York City, New York, Municipal Code §13-01, et seq; New York City, New York, Municipal Code §17-176, et seq

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