

**This Revenue Notice was revoked on December 31, 2013 by Revenue Notice # 13-06. See Revenue Notice # 13-06 for details.**

**Department of Revenue**

**Revenue Notice # 12-13: Tobacco Products Tax – Wholesale Sales Price Definition-Price List; Revocation and Replacement of Revenue Notice # 09-03**

**Introduction**

This Revenue Notice revokes and replaces Revenue Notice # 09-03. In light of the Minnesota Supreme Court decision in *McLane Minnesota, Inc. v. Commissioner of Revenue*, 773 N. W. 2d 289 (Minn. S. Ct. 2009) and other litigation, the Minnesota Department of Revenue is changing its position on what will qualify as a price list under *Minnesota Statutes*, section 297F.01, subdivision 23.

*Minnesota Statutes*, section 297F.01, subdivision 23, provides as follows:


"Wholesale sales price" means the price stated on the price list in effect at the time of sale for which a manufacturer or person sells a tobacco product to a distributor, exclusive of any discount, promotional offer, or other reduction. For purposes of this subdivision, "price list" means the manufacturer's price at which tobacco products are made available for sale to all distributors on an ongoing basis."

To date, the department's position has been that a price list under *Minnesota Statutes*, section 297F.01, subdivision 23, did not include a promotional price list.

**Department Position**

The department will accept a promotional price list as satisfying the requirement for a price list under the statutory definition of wholesale sales price provided under *Minnesota Statutes*, section 297F.01, subdivision 23. Sell sheets alone, however, are not recognized as price lists. In the situation where the only price list available is a manufacturer's price list, the department will continue to require that the price must be available to all distributors on an ongoing basis in order for the department to recognize those prices.

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