



## Ohio Administrative Code

### Rule 5703-15-18 Suspension of discount for selling cigarettes below cost.

Effective: August 17, 2019

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(A) In addition to the power to revoke or suspend a wholesale cigarette dealer's license, the tax commissioner may suspend a dealer's right to any discount in the further purchase of cigarette tax stamps upon finding by the commissioner that the dealer has violated section 1333.12 of the Revised Code by advertising, offering to sell, or selling cigarettes below cost.

(B) Notice of the suspension shall be delivered to the wholesale dealer personally or by certified mail. Such notice shall describe the reason for suspending the discount and the length of the time for which the suspension will be effective.

(C) After the expiration of ten days after the dealer received the notice of suspension, the tax commissioner shall prepare a journal entry ordering the suspension of discount as specified in the notice. Certified copies of the journal entry shall be delivered to the dealer and the treasurer of state personally or by certified mail. From the date of his receipt of the journal entry the treasurer shall refuse to allow a discount on the dealer's purchases of cigarette tax stamps until the period of suspension has expired.

(D)

(1) A dealer notified of discount suspension under this rule may, within ten days after receipt of the notice of suspension, protest the suspension to the tax commissioner. The protest must be filed personally or by certified mail and must specify the basis of the protest.

(2) In the protest, the dealer may request a personal appearance hearing. If such a hearing is requested, it shall be held in Columbus within thirty days of the filing of the protest. The hearing may be postponed by the commissioner for up to fifteen days if necessary. The commissioner shall give the dealer reasonable notice of the date and time for the hearing by mailing the notice of hearing by certified mail to the last known business address of the dealer. At the hearing, the dealer may present any evidence to show he was not in violation of section 1333.12 of the Revised Code or any



other information relevant to the proposed suspension. No transcript or stenographic record of the hearing will be made.

(3) If no hearing is requested, the commissioner shall consider any information presented with the protest filed by the dealer.

(4) The commissioner shall issue a journal entry setting forth the final determination on the protest and suspension and shall deliver the journal entry to the dealer personally or by certified mail. The final determination of the commissioner may be appealed to the board of tax appeals pursuant to section 5717.02 of the Revised Code.

(E) The first suspension of any dealer's discount shall be for a period not to exceed sixty days. Any subsequent suspension shall be for a period not to exceed one year.

(F) For purposes of this rule, selling below the presumptive cost to the wholesaler as published by the department of taxation constitutes sufficient cause to issue a notice of suspension of the discount.

(G) For any violation of section 1333.12 of the Revised Code, the commissioner may elect to pursue either the suspension of discount as provided by this rule or the suspension or revocation of the dealer's license as provided in section 1333.21 of the Revised Code.