

## Arkansas Department of Finance & Administration Rule 2012-2 Comments

1. Walmart requests that a list of the following items be included in the Section A.3.a. definition of "cosmetics" under Arkansas Department of Finance and Administration Rule 2012-2:

Acne Cleansers	Deodorant	Lip Liner
Acne Treatments	Epsom Salts	Lipstick
Acrylic Fingernail Glue	Eye Drops	Liquid Foundation
Acrylic Fingernails	Eye Liner	Liquid Soap
Aftershave	Eye Shadow	Lotion
Antimicrobial Products	Eyebrow Liner	Makeup
Germ-X Gel/Wipes	Eyelash Glue	Mascara
Antimicrobial Soap	Facial Cleansers	Mouthwash
Antiperspirant	Facial Treatments	Nail Fungus Treatment
Anti-Wrinkle Cream	Feminine Hygiene Creams	Nail Polish Remover
Artificial Eyelashes	Feminine Hygiene Douches	Perfume
Athletes Foot Cream/Spray	Feminine Hygiene Wipes	Peroxide
Baby Oil	Fingernail Decorations	Powder Foundation
Baby Powder	Fingernail Polish	Rash Creams
Bath Salts/Oils/Crystals	Foot Cleansers	Rubbing Alcohol
Blush	Foot Deodorant	Saline Wipes
Body Glitter	Hair Coloring	Shampoo
Body Spray	Hair Growth Treatment	Shaving Cream
Body Wash	Hair Mousse/Gel	Shaving Soap
Breath Spray/Strips	Hair Oil	Stretch Mark Creams
Bronzer	Hair Relaxer	Sunscreen
Bubble Bath	Hair Removal Products	Sunscreen w/ Insect
Cleansing Wipes	Hair Spray	Repellant
Cologne	Hair Wave Treatment	Tanning Lotion
Concealer	Hair Wax	Teeth Whitening Products
Conditioner	Lice Shampoo/Treatment	Toothpaste
Contact Moisturizers	Lip Balm	
Denture Adhesives	Lip Gloss	

The above list was generated by determining in general which items sold by Walmart meet the definition of "cosmetics" as presented in the Arkansas Department of Finance Administration Rule 2012-2.

2. Walmart also requests that the Arkansas Department of Finance and Administration create a definition for "soap" under section of Section A.3.b. of Rule 2012-2. The FDA defines "soap" under 21 CFR 701.20: as follows:

### **§ 701.20 Detergent substances, other than soap, intended for use in cleansing the body.**

(a) In its definition of the term *cosmetic*, the Federal Food, Drug, and Cosmetic Act specifically excludes soap. The term *soap* is nowhere defined in the act. In administering the act, the Food and Drug Administration interprets the term "soap" to apply only to articles that meet the following conditions:

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(1) The bulk of the nonvolatile matter in the product consists of an alkali salt of fatty acids and the detergent properties of the article are due to the alkali-fatty acid compounds; and

(2) The product is labeled, sold, and represented only as soap.

(b) Products intended for cleansing the human body and which are not "soap" as set out in paragraph (a) of this section are "cosmetics," and accordingly they are subject to the requirements of the act and the regulations thereunder. For example, such a product in bar form is subject to the requirement, among others, that it shall bear a label containing an accurate statement of the weight of the bar in avoirdupois pounds and ounces, this statement to be prominently and conspicuously displayed so as to be likely to be read under the customary conditions of purchase and use.

3. The two requested changes above to Rule 2012-2 would greatly enhance Walmart's and other retailer's abilities to successfully comply with the Arkansas Sales Tax Holiday regulations.

## John Theis

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**From:** Chris Neeley [cgneelee@wal-mart.com]  
**Sent:** Monday, February 27, 2012 2:35 PM  
**To:** John Theis; Tom Atchley  
**Cc:** 'lucas@markhamgroup.com'  
**Subject:** Fw: Arkansas Sales Tax Holiday  
**Attachments:** Rule 2012-2 Comments v.2.docx

John & Tom,

Attached are the revised comments from Walmart. Thanks again for meeting with Lucas and me!

Regards,

Chris

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**From:** Nick Haverkamp  
**Sent:** Monday, February 27, 2012 02:13 PM  
**To:** Chris Neeley  
**Subject:** RE: Arkansas Sales Tax Holiday

Chris,

I've attached our revised comments to which include the federal government's definition of soap and how Walmart came up with the list of items that we suggest are cosmetics. Let me know if you have any questions.

<<Rule 2012-2 Comments v.2.docx>>

Thanks,

Nick

**Nick Haverkamp Senior Manager, Tax Flags**  
Phone 479.204.2178 Fax 866.311.7270  
[Nicholas.Haverkamp@wal-mart.com](mailto:Nicholas.Haverkamp@wal-mart.com)

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702 Southwest 8th Street MS #0555  
Bentonville, AR 72716-0555  
Saving people money so they can live better.

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**From:** Nick Haverkamp  
**Sent:** Thursday, February 23, 2012 3:44 PM  
**To:** Chris Neeley  
**Subject:** RE: Arkansas Sales Tax Holiday

Hi Chris,

Just wanted to verify that our lobbyist delivered our requests to the Arkansas Sales Tax Holiday hearing this afternoon.

Thanks,

Nick

**Nick Haverkamp Senior Manager, Tax Flags**

Phone 479.204.2178 Fax 866.311.7270

[Nicholas.Haverkamp@wal-mart.com](mailto:Nicholas.Haverkamp@wal-mart.com)

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**From:** Chris Neeley

**Sent:** Monday, February 20, 2012 4:54 PM

**To:** Nick Haverkamp

**Subject:** RE: Arkansas Sales Tax Holiday

Yes, Lucas will deliver with a copy of the entire list. I already booked my return flight to SC before I knew about the hearing.

Chris G. Neeley

Director, Public Affairs

Walmart Stores, Inc.

702 SW 8th Street

Bentonville, AR 72716-0350

Tel: 479-715-3366

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**From:** Nick Haverkamp

**Sent:** Monday, February 20, 2012 5:45 PM

**To:** Chris Neeley

**Cc:** John Dalton

**Subject:** RE: Arkansas Sales Tax Holiday

Chris,

Is the lobbyist going to submit the letter at the hearing on the 23<sup>rd</sup>.

There is precedent to include a listing of eligible items within sales tax holiday definitions (see definition of school supplies). The items we are listing in our letter all fall within the definition of 'cosmetics' as currently written in the proposed regulation. Our intention with such an all inclusive list is to ensure that Walmart is in compliance with the sales tax holiday regulations.

Thanks,

Nick

**Nick Haverkamp Senior Manager, Tax Flags**

Phone 479.204.2178 Fax 866.311.7270

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**From:** Chris Neeley  
**Sent:** Monday, February 20, 2012 4:05 PM  
**To:** Nick Haverkamp  
**Subject:** RE: Arkansas Sales Tax Holiday

Nick,

Are you ok with us sending a letter via our lobbyist and include the list you provided? What is our best answer for adding such a long list to the exempt items?

Chris

Chris G. Neeley  
Director, Public Affairs

Walmart Stores, Inc.

702 SW 8th Street

Bentonville, AR 72716-0350

Tel: 479-715-3366

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**From:** Nick Haverkamp  
**Sent:** Thursday, February 09, 2012 4:25 PM  
**To:** Candice Smith Kellogg  
**Cc:** John Dalton; Laurie Smalling; Chris Neeley; Nick Infante  
**Subject:** RE: Arkansas Sales Tax Holiday

Candice,

I have attached our comments for Arkansas Proposed Rule 2012-2 (Arkansas Sales Tax Holiday). John and I would like our comments presented at the hearing in Little Rock on February 23<sup>rd</sup>. Do you need anything additionally from us in order to present the comments?

<< File: Rule 2012-2 Comments.pdf >>

Thanks,

Nick

**Nick Haverkamp Senior Manager, Tax Flags**  
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**From:** Candice Smith Kellogg  
**Sent:** Tuesday, January 31, 2012 12:48 PM  
**To:** Candice Smith Kellogg; Nick Haverkamp; Chris Neeley  
**Cc:** John Dalton; Laurie Smalling; Nick Haverkamp  
**Subject:** RE: Arkansas Sales Tax Holiday

Nick Infante and Chris,

Nick Haverkamp would like to revise a portion of the proposed sales tax holiday rules and believes that we will need to attend the hearing to do so. Can you provide Nick and the tax team support?

Candice

**Candice Smith Kellogg Senior Manager**

**Public Affairs and Government Relations**

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**From:** Candice Smith Kellogg  
**Sent:** Tuesday, January 31, 2012 12:29 PM  
**To:** Nick Haverkamp; Chris Neeley  
**Cc:** John Dalton; Laurie Smalling  
**Subject:** Arkansas Sales Tax Holiday

Nick and Chris,

You may already be aware but the State of Arkansas will host a hearing to discuss new rules developed for the Arkansas Sales Tax Holiday. A copy of the new rules are attached.

The public hearing will be held on February 23, 2012, at 1:00 p.m. in Conference Room 2330 on the second floor of the Joel Y. Ledbetter Building located at 1816 West 7<sup>th</sup> Street, Little Rock, Arkansas 72201. All interested parties are invited to attend and make comments on this rule. **YOU ARE NOT REQUIRED TO ATTEND THIS HEARING.**

You may submit written comments regarding Rule 2012-1 to:

Clarence Collins, Administrator, Office of Income Tax Administration