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:

<table>
<thead>
<tr>
<th>Cosmetics</th>
<th>Deodorant</th>
<th>Lip Liner</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acne Cleansers</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Acne Treatments</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Acrylic Fingernail Glue</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Acrylic Fingernails</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>After shave</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Antimicrobial Products</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Germ-X Gel/Wipes</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Antimicrobial Soap</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Antiperspirant</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Anti-Wrinkle Cream</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Artificial Eyelashes</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Athletes Foot Cream/Spray</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Baby Oil</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Baby Powder</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Bath Salts/Oils/Crystals</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Blush</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Body Glitter</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Body Spray</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Body Wash</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Breath Spray/Strips</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Bronzer</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Bubble Bath</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Cleansing Wipes</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Cologne</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Concealer</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Conditioner</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Contact Moisturizers</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
<tr>
<td>Denture Adhesives</td>
<td>Deodorant</td>
<td>Lip Liner</td>
</tr>
</tbody>
</table>

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:
Arkansas Department of Finance & Administration Rule 2012-2 Comments cont.

(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

From: Chris Neeley [cgneele@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

Walmart
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
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

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 23rd.

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  
Nicholas.Haverkamp@wal-mart.com  

Walmart  
702 Southwest 8th Street MS #0555
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

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 23rd. 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  
Phone 479.204.2178  Fax 866.311.7270  
Nicholas.Haverkamp@wal-mart.com

Walmart  
702 Southwest 8th Street MS #0555  
Bentonville, AR 72716-0555  
Saving people money so they can live better.
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 7th 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