

**DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

801 K STREET, MS 19-01, SACRAMENTO, CALIFORNIA 95814 • (916) 327-2792 • WWW.CALRECYCLE.CA.GOV

August 26, 2016

Brent Fryar, Director – Sales and Use Tax Audits
Wal-Mart Stores, Inc.
J Street Office
2608 SE J Street, Suite 2
Bentonville, AR 72712-0555

FINAL AUDIT REPORT- WAL-MART STORES, INC. (DS0877/BM3102)

Dear Mr. Fryar:

An audit of the books and records of Wal-Mart Stores, Inc. (Walmart) has been conducted pursuant to Public Resources Code, Section 14552, of the California Beverage Container Recycling and Litter Reduction Act. The audit covers the period of April 1, 2011 through March 31, 2014.

The audit scope was limited to examining Walmart's California Redemption Value (CRV) sales and transfers, on a test basis, identifying discrepancies in reported quantities, and recordkeeping noncompliance. It does not encompass any liabilities or credits that may exist with the Beverage Container Recycling Program (BCRP) as a result of other transactions.

The audit identified two audit findings, and revealed that Walmart was not in compliance with the BCRP requirements. Please see the attached Final Audit Report for details. If you have any questions regarding the audit report, please contact Steve Inderkum, Sacramento Audit Manager at Steven.Inderkum@CalRecycle.ca.gov or at (916) 322-5589.

The total amount due to the BCRP is \$7,287,827. This amount includes \$7,221,667 in CRV, \$8,456 in processing fees, and \$57,704 in interest calculated through April 30, 2016. Please mail your payment to the address below within thirty (30) calendar days from the date of this letter to avoid late penalties.

Department of Resources Recycling and Recovery
Fiscal Services Branch
Cash Management Unit
Attn: Accounting, MS 19A
P.O. Box 2711
Sacramento, CA 95812-2711

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There is no need to request an administrative hearing at this time. If the Department initiates legal action, you will be notified of your right to a hearing at that time.

Thank you for your time and assistance during this audit.

Sincerely,

 FOR

Josephine Urban, CPA
Chief, Office of Audits

Enclosure

cc: Jerri Kuburich, Specialty Tax Manager
J Street Office
2608 SE J Street, Suite 2
Bentonville, AR 72712-0555

Steve Inderkum, Sacramento Audit Manager

Denny Tjie, Auditor

bcc: Sarah Keck
Jane Hayes
Gina Randle
Narges Moeinfar
Client Services, PMU

File #A-16-395484

ALLOCATION INFORMATION

FUND	Audit Finding Amount	Interest	Civil Penalty	Total
CRV	\$ 7,221,667	\$ 57,617		\$ 7,279,284
Glass PFs	307	87		394
PET #1 PFs	4,427			4,427
HDPE #2 PFs	3,722			3,722
TOTAL	\$ 7,230,123	\$ 57,704		\$ 7,287,827

Prep. Equal. Dir. Abbr. Sales and Use Tax Audits

Wal-Mart Stores, Inc. (DS0877/BM3102)

Wal-Mart Stores, Inc. (DS0877/BM3102)



CalRecycle

Final Audit Report

August 2016

For the Period of April 1, 2011 through March 31, 2014

Prepared By:
Department of Resources Recycling and Recovery
Office of Audits

Summary The Office of Audits, within the Department of Resources Recycling and Recovery (CalRecycle), authorized by Division 12.1 of the Public Resources Code (PRC), Section 14552, audited Wal-Mart Stores, Inc.'s (Walmart) California beverage sales and transfers. The audit covered the period of April 1, 2011 through March 31, 2014. The last day of fieldwork was May 21, 2015.

The audit revealed that Walmart underreported beverage containers and the corresponding California Redemption Value (CRV), failed to report beverage containers and the corresponding Processing Fees (PFs). The total liability, is \$7,287,827. This amount includes \$7,221,667 in CRV and \$8,456 in PFs, and \$57,704 in interest. The noncompliance will be further discussed in the sections of Finding 1 and Finding 2 of this report.

Program Background The California Beverage Container Recycling and Litter Reduction Act (Act) was established by Chapter 1290 (AB2020), Statutes of 1986. The intent of Act was to encourage increased, and more convenient, beverage redemption opportunities for all consumers. The Act specifies that CalRecycle is responsible for administering the program and has the authority to conduct audits of companies participating in the program, such as beverage manufacturers and distributors.

Company Background Walmart is a California beverage dealer and distributor with headquarters and records located in Bentonville, Arkansas. Walmart operates fourteen (14) distribution centers and over 250 dealer retail locations and sells CRV and non-CRV products to consumers in California. Walmart purchases CRV beverages it sells from both in-state and out-of-state suppliers. Walmart does not manufacturer any CRV products, but has contracts with various distributors to manufacture its private-labeled brand CRV products.

As a result of these business transactions, Walmart is legally responsible for reporting and paying CRV to CalRecycle for all applicable beverages imported from out-of-state suppliers and sold or transferred to consumers in California. Additionally, Walmart is responsible for reporting and paying PFs to CalRecycle for all applicable beverages imported from its out-of-state suppliers and sold or transferred to its customers in California.

Volume and Amount During the current audit period, Walmart reported 837,820,750 containers totaling \$47,993,147.30 in CRV, and 125,406,059 containers totaling \$35,957.33 in PFs.

Prior Audits CalRecycle recently audited Walmart. The most recent audit of Walmart, conducted in 2009, resulted in two findings and a total liability of \$4,120,156.

The issues noted in the prior audit were:

- Walmart did not submit accurate Distributor Reports (DR-3s) and CRV payments on cases sold in California for the period of April 1, 2011 through March 31, 2014.
- Walmart did not submit accurate Beverage Manufacturer Reports (DR-4's) and PFs for the period of April 1, 2011 through March 31, 2014.

The current audit disclosed the errors were not corrected and continue to be issues that led to audit findings.

**Objective,
Scope, and
Methodology**

The audit objective was to:

- Determine Walmart's compliance with the California Beverage Container Recycling Program as it relates to the accuracy of the calculation and reporting of the appropriate redemption value and/or PFs.

The audit scope was limited to determine whether or not Walmart:

- Reported CRV and PFs on all applicable beverage sales and transfers.
- Complied with the program's recordkeeping requirements.

The audit methodology included:

- Limiting the review of internal controls to gaining an understanding of the CRV and PFs transaction flow necessary to plan the audit and determine the nature, timing, and extent of testing.
- Examining sales and transactions on a test basis to determine whether CRV and PFs were correctly reported.
- Determining, on a test basis, the responsible party for the reporting of the transactions related to Walmart's sales and transfers in California, and for the corresponding redemption value and/or PFs due to the California Beverage Container Recycling Fund.

**Finding 1 –
Inaccurate
Reporting of
CRV**

Walmart did not accurately report CRV on containers sold or transferred in California, in accordance with PRC, Sections 14550, 14553, 14560, and 14574, and/or Title 14 of the California Code of Regulations (14CCR), Sections 2090, 2310, and 2320.

The following issues were identified during the audit:

- Walmart did not include the sales of eighty-nine (89) CRV products in its reported CRV totals. This error resulted in 125,977,339 containers totaling \$6,871,600 in CRV being underreported.
- Walmart did not correctly code seventy-three (73) CRV products as non-CRV products. This error resulted in 6,390,444 containers totaling \$489,225 in CRV being underreported.
- Walmart did not correctly code one (1) CRV product due to erroneous product specifications. This error resulted in 1,350,825 containers or \$57,892 in CRV being overreported.
- Walmart did not correctly include the sales of thirty-seven (37) non-CRV products in its reported CRV totals due to erroneous product specifications provided by its suppliers. This error resulted in 1,115,400 containers totaling \$81,265 in CRV being overreported.

As a result of the errors noted above, Walmart underreported 129,901,558 containers totaling \$7,221,667 in CRV. Interest in the amount of \$57,617 has been assessed on the \$7,221,667 CRV underpayment. Interest was calculated through April 30, 2016 on amounts due. The total amount due for the finding is \$7,279,284.

Recommendation

Walmart should adopt and implement policies to ensure accurate preparation and reporting of beverage containers on its beverage distributor reports and the corresponding CRV to CalRecycle. This includes ensuring that all products are correctly coded.

Finding 2 – Inaccurate Reporting of Processing Fees

Walmart did not accurately report PFs on all applicable containers sold or transferred in accordance with PRC Sections 14553 and 14575, as well as 14CCR, Sections 2090, 2240, and 2245.

The following issues were identified during the audit:

- Walmart inconsistently included the sales of twenty-two (22) CRV products subject to PF's in its reported PFs totals. This error resulted in 24,400,241 containers totaling \$4,532 in PFs being underreported.
- Walmart did not include the sales of three (3) CRV products subject to PFs in its reported PFs totals because the products were

incorrectly coded as non-CRV. This error resulted in 2,513,925 containers totals \$3,882 in PFs being underreported.

- Walmart imported fourteen (14) CRV products from four (4) of its out-of-state suppliers. Walmart sold these products to customers in California, but did not include the sale of these products in its reported PFs totals. This error resulted in 151,512 containers totaling \$42 in PFs being underreported.

As a result of the errors noted above, Walmart underreported 27,065,678 containers totaling \$8,456 in PFs. Interest in the amount of \$87 has been assessed on the \$8,456 PFs underpayment. Interest was calculated through April 30, 2016 on amounts due. The total amount due for this finding is \$8,543.

Recommendation

Walmart should adopt and implement policies to ensure accurate preparation and reporting of beverage containers on its beverage manufacturer reports and the corresponding PFs to CalRecycle. This includes reporting the PFs on all applicable non-alcoholic beverages imported from out-of-state suppliers and sold or transferred in California.

Views of Responsible Officials

The audit results were communicated to Walmart representatives, Brent Fryar, Director of Sales and Use Tax Audits, and Jerri Kuburich, Specialty Tax Manager, via email on April 26, 2016, and, via an exit conference call on May 3, 2016, to acknowledge that the audit results were presented to Walmart.

A Draft Audit Report was issued to Walmart on May 17, 2016. On August 19, 2016, Walmart completed its review of the liability. Mr. Fryar agreed with the audit findings presented in the Draft Audit Report.

Restricted Use

This report is solely for the information and use of the management of Walmart and CalRecycle. It is not intended to be, and should not be, used by anyone other than the specified parties. However, this report is a matter of public record when it is released, and its distribution is not limited.



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December 23, 2016

Brent Fryar, Director – Sales and Use Tax Audits
Wal-Mart Stores, Inc.
J Street Office
2608 SE J Street, Suite 2
Bentonville, AR 72712-0555

RESULTS OF A LIMITED REVIEW - WAL-MART STORES, INC. (DS0877/BM3102)

Dear Mr. Fryar:

The Office of Audits, within the Department of Resources Recycling and Recovery (CalRecycle), authorized by Division 12.1 of the Public Resources Code (PRC), Section 14552, conducted a limited review of Wal-Mart Stores, Inc.'s (Wal-Mart) California beverage sales and transfers. The review period covered April 1, 2014 through July 31, 2016. This limited review period is subsequent to the period covered by CalRecycle's recently completed audit ended on March 31, 2014, and audit report dated August 26, 2016.

In order to bring its accounts to a current status, Wal-Mart proposed the application of the underpayment rate of 15.05% for California Redemption Value (CRV) determined by the results of the audit of the period from April 1, 2014 through July 31, 2016. Wal-Mart's management has provided reasonable assurances that the issues identified in the audit report dated August 26, 2016, have been corrected in the month of August 2016 and all subsequent periods.

CalRecycle accepted Wal-Mart's proposal and, in addition, applied the underpayment rate of 23.52% for processing fees (PF) as determined by the audit, to the limited review period. After reviewing the Beverage Distributor Reports and Beverage Manufacturer Reports submitted by Wal-Mart to CalRecycle for the limited review period, CalRecycle determined that the total amount due to the California Beverage Container Recycling Program (BCRP) was \$7,248,200. This amount includes \$7,210,556 in CRV, \$9,859 in PFs, and \$27,785 in interest calculated on the amount due through October 31, 2016, at a daily rate.

On November 30, 2016, we communicated the review results to Wal-Mart via email and explained how CalRecycle calculated the amount due to BCRP. In addition, to ensure that Wal-Mart has procedures in place to address the issues identified in the August 2016 audit report, CalRecycle requested from Wal-Mart a corrective action plan



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(CAP) specifying how Wal-Mart will correct or has corrected the problematic issues identified in the August 2016 audit report, and what Wal-Mart will do to prevent the same or similar mistakes from happening again in the future.

On December 13, 2016, CalRecycle received a check from Wal-Mart in the amount of \$7,248,200 for the full amount due to BCRP for the limited review period. On December 16, 2016, CalRecycle received the corrective action plan from Wal-Mart. Based upon our review, the CAP, as presented, appears to be reasonably sufficient to address the issues identified. In addition, Wal-Mart's accounts with CalRecycle are therefore considered current through July 31, 2016, the end of the limited review period.

To avoid negative audit findings and potential penalties in the future, Wal-Mart should ensure its continued compliance with the California Beverage Container Recycling and Litter Reduction Act.

Thank you for your time and assistance during this audit.

Sincerely,



Josephine Urban, CPA
Chief, Office of Audits

cc: Steve Inderkum, Sacramento Field Office Audit Manager

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Wal-Mart Stores, Inc. (DS0877/BM3102)
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Bcc: Sarah Keck
Jane Hayes
Gina Randle
Narges Moeinfar
Client Services, PMU

File # A16-518484

ALLOCATION INFORMATION

FUND	Audit Finding Amount	Interest	Admin Fees	Civil Penalties	Total
CRV	\$7,210,556	\$27,752	n/a	n/a	\$7,238,308
PFs					
Glass	360	1	n/a	n/a	361
P1 PET	5,160	17	n/a	n/a	5,177
P2 HDPE	4,339	15	n/a	n/a	4,354
TOTAL	\$7,220,415	\$27,785			\$7,248,200*

*On December 13, 2016, a payment of \$7,248,200 was received from Wal-Mart. There is no remaining amount due.