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WAL-MART'S TAX AVOIDANCE SCHEMES

How Wal-Mart's Pursuit of Lower Taxes Has Cost States and Their Communities Millions

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Wal-Mart's Tax Avoidance Schemes

Corporate tax loopholes are having a profound effect on state revenue collections, and mounting evidence demonstrates that for many years Wal-Mart has aggressively pursued them in order to avoid paying state taxes. The legality of certain tax schemes differs state to state and certain strategies are extremely complex, but the underlying results are the same: they have saved Wal-Mart from paying hundreds of millions of dollars in state taxes. According to a February *Wall Street Journal*[1] article and Standard & Poor's Compustat system (which collects data from SEC filings), on average Wal-Mart has paid only about half of the statutory state tax rates for the past decade.

This paper will focus on two primary strategies utilized by Wal-Mart – trademark holding companies and "captive REITs" – and demonstrate how states have responded to them. It will also delve briefly into two emerging issues, Wal-Mart's use of state and local government subsidies, and its aggressive challenging of property tax assessments. Why are these issues so important? As companies like Wal-Mart find more and more creative ways to avoid paying their share of taxes, the burden on individual taxpayers will continue to grow.

- *In 1995, the New Mexico Taxation and Revenue Department began an audit of WMR, a subsidiary of Wal-Mart created in 1991. Suspicion had arisen that Wal-Mart was using WMR as a* ***trademark holding company*** *for the sole purpose of withholding state tax. Though WMR ceased to exist as a separate entity in February 1997, when it merged back into Wal-Mart, New Mexico completed its investigation and issued assessments in 1998. On May 1, 2006, a hearing officer upheld the assessment of $11,630,226 in corporate income tax against Wal-Mart Stores, Inc. Wal-Mart additionally has sought – and was denied – a similar refund in Louisiana.*
- *Wal-Mart is currently in court in North Carolina, seeking to force a refund of the $33 million it claims the state owes it for improperly assessing corporate income tax. Wal-Mart has been using a "****captive REIT****" strategy to distort the company's true net income, and in the process cutting its state taxes by over 20% during one four-year period. Similarly, Wisconsin alleges that Wal-Mart owes over $17.7 million in back taxes for us of the captive REIT scheme.*
- *New York Governor Eliot Spitzer included closing the REIT loophole as a priority in his 2007 budget proposal, a move estimated could raise as much as $104 million for the state in the next year. Massachusetts Governor Deval Patrick has discussed a similar proposal. Connecticut and Maryland both announced they would examine the "captive REIT" strategy. In all, the governors of six states recommended adopting a tax policy known as* ***"combined reporting"*** *to nullify the REIT and other loopholes.*
- *The Multistate Tax Commission has been examining the use of "captive REITs" to avoid state taxes, alerting states to the issue and proposing legislative fixes to close certain loopholes. A report issued by the Commission in 2003 outlined the impact such loopholes have on state revenue collection.*
- *New reports on Wal-Mart's use of* ***subsidies*** *and challenging of* ***property tax assessments*** *illustrate Wal-Mart's systematic approach to paying as little in state and local taxes and receiving as much in subsidies as possible.*

New Mexico Tells Wal-Mart It Must Pay Corporate Income Tax

The **trademark holding company** strategy typically involves transferring a company's trademarks, trade names, and service marks to a separately incorporated subsidiary, which then licenses the marks back to the original company – in this case back to Wal-Mart for use nationwide in individual stores, advertisements, etc.. At present, state courts have split on whether the use of trademark holding companies to avoid paying state taxes is protected by Supreme Court precedents.[2] Some state courts including Georgia, Maryland and New York have sided with companies, while others such as New Mexico, Massachusetts and South Carolina have sided with states. Tax experts contend that the strategy of placing such holding companies in a state like Delaware – Delaware does not tax the income of a corporation whose only activity in the state is the ownership, maintenance, and management of intangible assets – has resulted in billions of dollars in revenue losses for states.[3]

Wal-Mart established its own trademark holding company, WMR, Inc., in 1991. Set up in Delaware in a small one-room office, WMR never had more than two employees, and its property and payroll expenses represented less than 1/100th percent of its net income.[4] Last year, the New Mexico Taxation and Revenue Department upheld an $11.6 million corporate income tax assessment against Wal-Mart and WMR, holding the company could not shield itself from New Mexico earnings by transferring them to an out-of-state holding company.[5]

In her decision, a New Mexico Taxation and Revenue Department hearing officer noted that WMR was created "for the primary purpose of reducing state income taxes for Wal-Mart Stores, Inc.," which "believed that WMR could shelter Wal-Mart Stores' income from taxation by most states."[6] New Mexico argued WMR's licensing activity within the state made it subject to New Mexico's tax jurisdiction, and that equitable apportionment provisions in the state tax code allowed sourcing of WMR's income to the state.[7] Both of those propositions had been upheld previously by the New Mexico Court of Appeals in a comparable case against K-Mart.[8] Similarly, it has been upheld that a foreign corporation licensing the use of its trademarks to a local affiliate has business activity within that state.[9]

The fundamental point of argument in cases such as these has revolved around the physical-presence standard laid out by the Supreme Court in 1992.[10] The Due Process Clause of the U.S. Constitution "requires some definite link, some minimum connection, between a state and the person, property or transaction it seeks to tax."[11] As courts have noted, the basic concern of due process is fairness: in this case, whether a foreign corporation has sufficient contacts with a taxing state to put that corporation on notice that the taxing state will exercise power over it.[12] Due process does not, however, require that the taxpayer be physically present within the taxing state in order for that state to exercise power over it.[13]

The Supreme Court addressed this issue at least in part in *Quill Corporation v. North Dakota*, which involved an interstate mail-order business and held that an Illinois sales and use tax imposed on out-of-state mail-order companies lacking a physical presence in the state violated the Due Process Clause and the Commerce Clause.[14] The controversy now is whether the *Quill* physical presence test applies to income tax as well. In *Geoffrey, Inc. v. South Carolina Tax Commission*, the South Carolina Supreme Court held that a trademark holding company had a constitutional nexus with the state for income tax purposes despite a lack of physical presence because it licensed its intangibles for use in South Carolina.[15] After the *Geoffrey* decision, states began to line up on either side – a number of states adopted *Geoffrey*-type nexus rules, while others ruled that the *Quill* physical presence test does apply to income tax.[16]

States such as Florida, Massachusetts, and New Jersey have adopted rules mirroring the *Geoffrey* decision.[17] New Mexico courts have also held that the physical presence requirement does not apply to income tax. The court in *Kmart* repeatedly emphasized the Supreme Court's narrow focus on sales and use taxes, and the clear impression that it was not applying the physical presence requirement to any other taxes.[18] The *Kmart* court did also look to other states as examples, including Illinois and Washington, among others.[19] As the New Mexico court noted in upholding the Wal-Mart assessment, "the real source of WMR's income was not the limited clerical work performed by its part-time employees in Delaware, but the purposeful licensing of its trademarks for use at Wal-Mart stores throughout the United States, including New Mexico."[20]

WMR licensed the use of Wal-Mart's trademarks back to Wal-Mart for use in its stores nationwide, and as such, depending on individual state laws and how individual jurisdictions have interpreted the *Quill* physical presence test, it is plausible that the investigations and assessments handed down by the New Mexico Taxation and Revenue Department could be replicated in other states.

The New Mexico trademark holding case is reminiscent of a similar suit in Louisiana. The Bayou State, facing a $500 million budget gap, went to court with Wal-Mart over the *Geoffrey* loophole. Wal-Mart paid $15.4 million in back taxes to Louisiana which the state claimed it had avoided paying by using the loophole. The retailer then took the State Revenue Department to court seeking a refund.[21] Records from the case are under seal, but the Louisiana Department of Revenue argued Wal-Mart's out-of-state subsidiary had an economic presence in the state, which subjected it to Louisiana income tax.[22] In April 2004, a district court judge in Baton Rouge refused Wal-Mart's request to force the state to pay back the $15.4 million, and ordered the case to go to trial.[23]

Captive REITs: Wal-Mart Contests Tax Assessment in North Carolina, Louisiana

WMR merged back into its parent company in February of 1997, and while the merger process was underway, Wal-Mart was already setting up a new tactic for handling its state tax bill. In the fall of 1996, Delaware corporate records show that Wal-Mart created a new structure of subsidiaries: (1) a **REIT**[24] called the Wal-Mart Real Estate Business Trust; (2) a Delaware-based parent company for the REIT, called the Wal-Mart Property Co.; and (3) Wal-Mart Stores East Inc., parent of the Delaware firm.[25]

Wal-Mart is taking advantage of a tax loophole that the federal government closed years ago, paying rent to itself then deducting it from state taxes in about twenty-five states. Data from filings with the Securities and Exchange Commission show that on average Wal-Mart has paid only about half the statutory state rates over the past decade.[26] North Carolina took a proactive approach, and computed Wal-Mart's tax bills by combining the company's tax return with those of the subsidiaries. The state combined the returns because it contended that Wal-Mart's income tax return failed to disclose Wal-Mart's "true earnings on its business carried on in the state."[27]

Wal-Mart paid the tax assessment, then filed suit against the North Carolina Secretary of Revenue, seeking a refund. The case (*Wal-Mart Stores East, Inc. v. E. Norris Tolson, Secretary of Revenue of the State of North Carolina*) is ongoing in North Carolina Superior Court, with North Carolina tax authorities claiming the REIT strategy was a deliberate attempt to distort Wal-Mart's true net income.[28] Wal-Mart has challenged the legality of how the state calculated its tax bill – the "audit period" in question occurs between February 1, 1998 and January 31, 2002[29] - including claiming violations of due process and the commerce clause of the U.S. Constitution, as well as violations of the North Carolina Constitution.

Documents from the North Carolina case, however, reveal the lengths to which Wal-Mart has gone to reduce its state tax bills. In addition to putting together the captive REIT strategy, records show Wal-Mart hired accounting firm Ernst & Young to devise tax strategies for at least four large states – Arizona, California, Michigan, and Texas.[30] In 2002, Ernst & Young delivered a 37-page proposal laying out a smorgasbord of 27 potential tax strategies, most tailored to a specific state's tax code.[31]

These trademark and REIT cases illustrate only a small portion of how much money corporations can hide by moving it around through subsidiaries instead of paying it in state tax. According to a N.C. Revenue Department auditor's report, over the four-year audit period, Wal-Mart and Sam's Club paid over $7 billion to company controlled REITs estimated to have saved the company approximately $350 million in state taxes nationwide.[32] Not every state has the capacity to challenge these practices – Maryland, for example, acknowledged it could be losing millions of dollars, but prior to its recent announcement that it would investigate the practice, the Maryland Comptroller's Office had maintained that under existing law it is a legitimate tax shelter[33] - so unless loopholes are closed or legal action taken many states will continue to lose money.

What is particularly aggravating to officials is the way in which this particular REIT was set up – Wal-Mart satisfied a requirement that REITs have at least 100 owners by listing 99 Wal-Mart executives as non-voting, otherwise meaningless shareholders. As *The Wall Street Journal* revealed in excerpts from an Ernst & Young training manual, these contacts serve no business purpose other than "tax planning".[34] In addition, many criticize the REIT strategy because it allows companies to use public services such as police, fire, public highways, etc., without paying a fair share of the taxes that go to providing them.

New York and Others Move to Close Loopholes, Recover Lost Revenue

Many states have already moved to close such loopholes, including the newly elected Governor of New York. Included in his budget for the upcoming year is a proposal to eliminate the tax deduction for some real-estate investments trusts, a move estimated could raise up to $104 million for the state of New York.[35] The largest proposal in Spitzer's budget would require companies such as Wal-Mart to report all income earned including that from out-of-state subsidiaries, so that the state can then determine what portion would then be subject to state taxes, which could raise as much as $215 million next year for New York.[36] **Combined reporting** systems have been initiated in several states in order to obtain a truer picture of a company's taxable income. The system works by requiring companies to combine profits from all related subsidiaries before determining what portion of their profits are taxable.[37]

Besides New York, a growing number of states have begun to seriously consider reforming their corporate income tax laws by adopting combined reporting. The governors of five additional states – Iowa, Massachusetts, Michigan, North Carolina, and Pennsylvania – recommended in the past year that their states implement combined reporting.[38]

******UPDATE******

In March of 2007, the West Virginia legislature approved the adopting of combined reporting, effective with the 2009 tax year.[39] Similarly, the New York legislature approved Governor Spitzer's recommendation, and included combined reporting as part of the state budget bill passed in April of 2007 – the combined reporting requirement will be retroactive to the beginning of 2007.[40] Then in July, Michigan Governor Jennifer Granholm signed into law the "Michigan Business Tax" mandating the use of combined reporting.[41] And in Massachusetts, a business taxation study commission continues to assess the benefits of combined reporting, and is expected to issue recommendations by the end of 2007.[42] Massachusetts Governor Deval Patrick is seriously considering a

combined reporting system,[43] and Patrick aides have said such a move could raise as much as $200 million.[44] Senate Democrats in Wisconsin have proposed combined reporting, though Governor Jim Doyle and the Republican-dominated Assembly currently oppose the measure.[45]
******UPDATE******

Maryland closed the *Geoffrey* trademark holding company loophole years ago, and in 2005 tried to do the same with REITs, but a bill introduced during the 2005 session died in the Maryland Statehouse.[46] Former New York Governor George Pataki proposed legislation similar to Spitzer's proposal in 2006, but it too was rejected by the New York legislature.[47]

The defeats haven't stopped other states from moving forward. Officials in New Mexico are hoping that the recent Wal-Mart ruling will help push through a legislative measure that would change the state to a combined reporting system. Efforts to pass similar legislation in New Mexico didn't make it in 2006, and members of both political parties expect large corporations to fight hard to defeat the measure again this year.[48] House Bill 535 is the third attempt to close the $80 million dollar loophole in New Mexico.[49] The Maryland Legislature also introduced combined reporting bills in 2007 – Maryland House Bill 553 and Senate Bill 393.[50]

The Multistate Tax Commission ("MTC"), an association of state revenue authorities, has begun examining the use of REITs to avoid state tax, seeking to alert states to the issue and provide legislative solutions to close the loophole.[51] Among other things, they provide model legislation and updates on the latest legislative actions states have taken.
In 2003, MTC issued a report on corporate tax sheltering and the impact on state tax revenue collections.[52] The report found that combined reporting states are less affected by domestic tax sheltering than separate entity states – the median decline in effective corporate tax rates between 1986 and 1997 was 38.4 percent for separate entity states and 20.0 percent for combined reporting states.[53] As mentioned earlier, states such as New York and Massachusetts are both looking to move to combined reporting systems. Combined reporting can provide a level playing field for all businesses – multi-state corporations shouldn't have a tax advantage over wholly owned local businesses.[54] According to the Center on Budget and Policy Priorities, combined reporting ensures "that large multi-state corporations cannot end up paying income tax at a lower effective rate than small businesses by subdividing themselves into separate corporations and then manipulating transactions within the overall corporate group."[55]

Additionally, Connecticut and Maryland announced they would examined going after companies like Wal-Mart that seek to abuse the tax system, and Wisconsin recently did the same. Connecticut Attorney General Richard Blumenthal announced he was launching an investigation into whether current Connecticut law can be enforced against Wal-Mart and others for their use of REITs.[56]

Maryland State Comptroller Peter Franchot announced his office would begin auditing companies that it suspected of using the "captive REIT" arrangement, and would disallow the deduction if it found those payments.[57] State tax auditors in Wisconsin are holding that Wal-Mart owes more than $17.7 million in back corporate income taxes for 1998 through 2000, with more possibly due for later years.[58]

The Wal-Mart Way: Seeking Subsidies and Appealing Property Tax Assessments

Wal-Mart Subsidies

Wal-Mart's aggressive expansion has been funded in part by taxpayers, through large doses of economic subsidies. A report released in 2004 documented Wal-Mart's collection of over $1 billion in state and local government subsidies, a compelling figure when taking into account Wal-Mart's annual revenues of $285 billion and annual profits of over $10 billion.[59] Those subsidies, documented in the report "Shopping for Subsidies: How Wal-Mart Uses Taxpayer Money to Finance Its Never-Ending Growth," include free or reduced-price land, infrastructure assistance, property tax breaks, state corporate income tax credits, and general grants.[60] Individual subsidy deals at Wal-Mart stores averaged approximately $2.8 million, while subsidies at Wal-Mart distribution centers – which ranged as high as $46 million – averaged at around $7 million.[61]

On a new website (www.walmartsubsidywatch.org) one can now find exactly how much in subsidies Wal-Mart has received in taxpayer assistance, a figure nationally that now sits at over $1.2 billion dollars.[62] Most recently, a supercenter in Kansas City, Missouri's Blue Ridge Mall received over $26 million in taxpayer subsidies, while a recently opened supercenter in Mesa, Arizona received over $13 million, and a supercenter in Branson, Missouri scheduled to open in Spring 2008 has received an estimated $12 million.[63]

Appealing Property Taxes

As if receiving hundreds of millions of dollars in taxpayer money to build isn't enough, a new study shows that Wal-Mart has sought to reduce the property taxes it pays on 35 percent of stores and 40 percent of distribution centers.[64] Once the report was released, a flurry of stories from towns across the country were published, recounting Wal-Mart's aggressive challenging of property tax assessments.

- In Busti, New York, Wal-Mart is seeking an assessment of $6 million, citing the current $11.5 million assessment is incorrect.[65] According to Busti assessor Randy Holcomb, "Wal-Mart typically does this with their stores, and it's not uncommon to see this with many of the Wal-Mart stores across the state. They did this to the town of Busti about 10 years ago, but an agreement was reached.''[66] The lawsuit is so large, Chautuaqua County will be stepping in to help the city.

- In Halfmoon, New York, Wal-Mart has sued to lower its an assessment, which would lead to a $362,000 rebate on tax bills for 2006 and 2007.[67] In Glenville, Wal-Mart is trying to gets its $14 million assessment cut to $6 million, while in Queensbury, Wal-Mart has sued to reduce its $12 million assessment.[68]
- In Culpepper, Virginia, after saving $6,800 from a 2003 challenge, Wal-Mart challenged again (and lost) in 2007.[69]

The report, entitled "Rolling Back Property Tax Payments," found that Wal-Mart saved approximately $40,000 per store per challenge, and about $289,000 per distribution center.[70] That's right, not only does Wal-Mart seek subsidies in the form of property tax breaks, but even then, it will still challenge assessments. The report suggests that Wal-Mart saves approximately $3 million annually from challenging the assessments, a sum that must be made up for by other taxpayers. That Wal-Mart systematically tries to reduce its payment of taxes through the challenging of assessments is simply part of a larger pattern of state and local tax avoidance, according to Good Jobs First.[71]

Conclusion

Several governors have already taken it upon themselves to investigate the benefits of and push for combined reporting. Additionally, Maryland and New Mexico are examples of state legislatures that have sought to attack tax loopholes. And Connecticut, Maryland, and Wisconsin have all felt the need to specifically investigate the practices of large corporations such as Wal-Mart.

A 2001 letter from Wal-Mart to accounting firms did not mince words when it comes to what Wal-Mart has been looking for, stating: "Wal-Mart is requesting your proposal(s) for professional tax advice and related implementation services in connection with minimization of state income taxes in the following states: Arizona, California, Florida, Illinois, Indiana, Michigan, Minnesota, and Pennsylvania."[72] Not surprisingly, these were mostly states in which it was difficult for Wal-Mart to generate any benefit from the REIT strategy, so alternatives were being sought.

Until more states begin to take a proactive approach, Wal-Mart will continue to find new and creative ways to avoid paying the funds that otherwise would help support public services such as healthcare, education, and new highways.

End Notes:

[1] Jesse Drucker, “Wal-Mart cuts taxes by paying rent to itself,” *The Wall Street Journal*, February 1, 2007.
[2] The use of trademark holding companies refers to when a company creates a subsidiary to which it then transfers its intellectual property. The holding company then licenses the trademark back to the parent company, and the licensing fees it receives are not subject to state tax. The royalty rates paid back to WMR from Wal-Mart were expressed as a percentage of Wal-Mart’s domestic sales.
[3] Glenn R. Simpson, “Corporations evade taxes, we pay their share,” *The Wall Street Journal*, August 9, 2002.
[4] *In the Matter of the Protest of Wal-Mart Stores, Inc. (Successor to WMR, Inc.)*, Decision and Order ¶¶ 46-55 (May 1, 2006).
[5] Jason Trenkle, “State says Wal-Mart must pay New Mexico’s corporate income tax,” *New Mexico Business Weekly*, May 19, 2006.
[6] State of New Mexico Taxation and Revenue Department Press Release: “Wal-Mart Corporate Income Tax Assessment Upheld,” May 3, 2006.
[7] Id.
[8] *Kmart Corporation v. Taxation and Revenue Department*, 131 P.3d 27 (N.M.Ct.App. 2001).
[9] See *Lanco, Inc. v. Director, Division of Taxation*, 879 A.2d 1234 (N.J.Super.Ct. 2005); *A&F Trademark, Inc. v. Tolson*, 605 S.E.2d 187 (N.C.Ct.App. 2004); *Geoffrey, Inc. v, South Carolina Tax Commission*, 437 S.E.2d 13 (S.C. 1993). Each case rejected the idea that a corporation must have a physical presence within a state in order to have taxable business activity within the state.
[10] *Quill Corporation v. North Dakota*, 504 U.S. 298 (1992).
[11] *Quill*, 504 U.S. at 306.
[12] *Kmart Corporation*, 131 P.3d at 32.
[13] *Quill*, 504 U.S. at 308.
[14] *Kmart Corporation*, 131 P.3d at 34.
[15] *Geoffrey, Inc. v. South Carolina Tax Commission*, 313 S.C. 15 (1993).
[16] Christine C. Bauman and Michael S. Schadewald, “More states challenge trademark holding companies,” *The CPA Journal*, 2004.
[17] Id.
[18] *Kmart Corporation*, 131 P.3d at 34-5.
[19] See *General Motors Corporation v. City of Seattle*, 25 P.3d 1022, 1028 (Wash. Ct. App. 2001); *Borden Chemicals & Plastics, LP v. Zehnder*, 726 N.E.2d 73, 80 (Ill. App. Ct. 2000). See also Michael T. Fatale, “State Tax Jurisdiction and the Mythical “Physical Presence” Constitutional Standard,” 54 Tax Law 105, 131 (“In general, the state court cases determine that, when a taxpayer has income derived from a state’s economic market, the taxpayer is subject to the state’s income tax.”)
[20] *In the Matter of the Protest of Wal-Mart Stores, Inc.*, Decision and Order 24.
[21] Alan Sayre, “States take aim at ‘Geoffrey’ tax loophole,” *The Associated Press*, June 24, 2004.
[22] Id.
[23] Sprawl-busters.com *Newsflash!*, “Wal-Mart corporate tax shelter worth millions” <http://www.sprawl-busters.com/search.php?readstory=1468> (accessed February 10, 2007).
[24] REIT stands for real-estate investment trust, and it works as follows using Wal-Mart as an example: One Wal-Mart subsidiary pays rent to a REIT, which is entitled to a tax break if it pays its profits out in dividends. The REIT is 99%-owned by another Wal-Mart subsidiary, which receives the REIT's dividends tax-free. When it comes time to pay state taxes, Wal-Mart then gets to deduct the rent as a business expense, even though the money has stayed within the company.
[25] Drucker, *supra* note 1.
[26] Id.
[27] David Ranii, “Wal-Mart contests state’s tax bill,” *The News & Observer*, July 7, 2006.
[28] Drucker, *supra* note 1.
[29] *Wal-Mart Stores East, Inc. v. E. Norris Tolson*, Defendant’s Amended Complaint ¶ 4 (March 31, 2006).
[30] Jesse Drucker, “Inside Wal-Mart’s bid to slash state taxes,” *The Wall Street Journal,* October 23, 2007.
[31] Id.
[32] Drucker, *supra* note 1.
[33] Jay Hancock, “Wal-Mart: Always low taxes,” *The Baltimore Sun*, February 7, 2007. *See also:* Tricia Bishop, “Franchot to change policy on REIT rents,” *The Baltimore Sun*, March 6, 2007.
[34] Drucker, *supra* note 1.
[35] Jay Gallagher, “Business leaders see tax hikes in Spitzer budget,” *Gannett News Service*, February 2, 2007.
[36] Id.
[37] The New Rules Project *Retail*, “State Tax Fairness: Combined Reporting” <http://www.newrules.org/retail/taxfaircombined.html> (accessed February 27, 2007).
[38] Michael Mazerov, “Growing Number of States Considering a Key Corporate Tax Reform,” Center on Budget and Policy Priorities, April 5, 2007.
[39] Michael Mazerov, “Growing Number of States Considering a Key Corporate Tax Reform,” Center on Budget and Policy Priorities, revised September 12, 2007.
[40] Id.
[41] Id.
[42] Id.
[43] Steve Bailey, “Extreme tax games,” *The Boston Globe*, February 21, 2007.

[44] Peter J. Howe, "Patrick's tax plan targets multistate corporations," *The Boston Globe*, February 21, 2007.
[45] Steven Walters and Avrum D. Lank, "Wal-Mart owes back taxes, state says," *Milwaukee Journal-Sentinel*, August 25, 2007.
[46] Hancock, *supra* note 33.
[47] Gallagher, *supra* note 35.
[48] Jason Trenkle, "Tax fixes try for comeback in 2007 legislative agenda," *New Mexico Business Weekly*, December 25, 2006.
[49] David Miles, "Bill targets multistate corporations' tax liability," *The Santa Fe New Mexican*, February 17, 2007.
[50] Mazerov, *supra* note 40.
[51] Drucker, *supra* note 1.
[52] Multistate Tax Commission Report, "Corporate Tax Sheltering and the Impact on State Corporate Income Tax Revenue Collections," July 15, 2003.
[53] Id.
[54] Editorial, "First, close loopholes," *The Des Moines Register*, February 20, 2004.
[55] Mazerov, *supra* note 40.
[56] Don Michak, "Wal-Mart dodging state taxes?," *Connecticut Journal Inquirer*, March 1, 2007.
[57] Drucker, *supra* note 1.
[58] Walters and Lank, *supra* note 43.
[59] Barnaby J. Feder, "Wal-Mart's expansion aided by many taxpayer subsidies," *The New York Times*, May 24, 2004.
[60] "Shopping for Subsidies: How Wal-Mart Uses Taxpayer Money to Finance Its Never-Ending Growth," Good Jobs First, May 2004.
[61] Id.
[62] www.walmartsubsidywatch.org
[63] www.walmartsubsidywatch.org/top_nation.html
[64] David Cay Johnston, "Study says Wal-Mart often fights local taxes," *The New York Times*, October 10, 2007.
[65] Jessica Wasmund, "Wal-Mart sues for lower tax assessment," *The Post-Journal*, October 10, 2007.
[66] Id.
[67] Dan Higgins, "Wal-Mart contests local property taxes," *Albany Times Union*, October 11, 2007.
[68] Id.
[69] Chris Flores, "Wal-Mart works to lower its local tax bills," *Newport News Daily Press*, October 10, 2007.
[70] "Rolling Back Property Tax Payments: How Wal-Mart Short-Changes Schools and other Public Services by Challenging Its Property Tax Assessments," Good Jobs First, October 2007.
[71] Ibid.
[72] Drucker, *supra* note 30.

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Multistate Tax Commission ("MTC") http://www.mtc.gov/

MTC Resources page http://www.mtc.gov/Resources.aspx?id=68

MTC PowerPoint on "captive REITs" www.mtc.gov/.../Committees/Litigation_Committee/Resources/MTC_AttyConCall_Jan25_07_to%20Post.ppt

National Association of Real Estate Trusts http://www.nareit.com/index.cfm

State of New Mexico Taxation and Revenue http://www.tax.state.nm.us/

New York Office of the Governor http://www.ny.gov/governor/index.html

NY State 2007-08 Executive Budget http://publications.budget.state.ny.us/executive.html

North Carolina Department of Revenue http://www.dornc.com/index.html

The Real Estate Roundtable http://www.rer.org/

State Fiscal Analysis Initiative http://www.statefiscal.org/