



New Mexico Fiscal Policy Project

Corporate Income Tax and Combined Reporting

May 2007

Corporate Income Tax (or CIT) is the tax that corporations pay on the profits they make from doing business in New Mexico.

Unfortunately, New Mexico tax law has a loophole that multi-state corporations can exploit to avoid paying CIT to New Mexico.

Shifty Business

Here's how it works: a multi-state corporation, like Wal-Mart for example, can "shift" all of the income it made in New Mexico to a holding company in a state such as Delaware, which does not collect CIT. Since their books show no income in New Mexico, they avoid paying the CIT here.

Because of this loophole, the state fails to collect an estimated \$80 million in revenue each year. So the state has to collect that money from the rest of us instead.

Some states, however, do not have this problem because they have a law that requires combined reporting.

This means multi-state corporations doing business in Oregon, for example, must "combine" the income they earned in every state where they do business (except those that don't require it, like New Mexico). A formula is then used to determine how much CIT the corporations owe to each state.

Closing this tax loophole would not hurt our efforts to attract new, out-of-state businesses because every other state west of the Mississippi River – except New Mexico and Oklahoma – requires combined reporting.

What About Wal-Mart?

In 2006, New Mexico took Wal-Mart to court, and the state Taxation and Revenue Department upheld an \$11.6 million tax assessment against the giant retailer. But even that didn't solve the problem. In response, Wal-Mart created a real estate investment trust. Now it deducts from its CIT bill the cost of "paying" itself rent.

The state has also taken Kmart and Sonic to court over unpaid CITs. But taking corporations to court is an expensive and ineffective way to collect taxes.

In 2003, the Blue Ribbon Tax Commission stated in its final report to the state Legislature that, "combined reporting is the fairest approach to corporate taxation at the state level." But the Legislature has failed to act on the matter.

New Mexico's Legislature needs to enact combined reporting so multi-state corporations pay their fair share of taxes on the profits they make here.