

# WAL★MARTWATCH

AN INSIDE LOOK AT THE LARGEST RETAILER ON EARTH

**IN DEPTH**

APRIL 2008

ABOUT US:

**WAL-MART WATCH** is a nationwide public education campaign to challenge the world's largest retailer to become a better employer, neighbor and corporate citizen.

We bridge the gap between ordinary citizens and community organizations concerned about Wal-Mart's unchecked growth and negative impact on our society. We challenge Wal-Mart to embrace its moral responsibility as the nation's biggest and most important corporation.

# WAL-MART'S GREAT TAX DODGE

Wal-Mart is always trying to cut costs - and a major expense for any corporation is taxes. The world's largest retailer employs a number of methods to avoid paying its fair share of taxes and takes every opportunity to use public funds for its private development. Throughout this issue we examine a number of these strategies.

TAX AVOIDANCE STRATEGY #1

## How Wal-Mart Rolls Back Its Property Tax Payments

*By Philip Mattera, Good Jobs First*

When Wal-Mart proposes to build another of its giant stores, local residents often raise concerns about increased traffic, loss of open space, higher crime rates and other negative impacts that depress property values. The company responds by claiming that its stores provide substantial benefits to communities.

Yet what Wal-Mart does not disclose in site fights is the extent to which the company later in effect concedes the point about reduced property values. Once a store has been in operation for a while, Wal-Mart frequently challenges the assessed value that local officials assign to it for tax purposes. In an effort to cut the property tax it pays—revenue needed for services such as public education—Wal-Mart routinely tries to belittle the value of its own facilities.

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## A Letter from David Nassar, Executive Director of Wal-Mart Watch

When Wal-Mart wants to build a store in a new community, it makes a lot of promises. The company paints an alluring picture of a bustling local economy with more jobs, increased tax revenue and a thriving shopping district all centered around the town's sparkling new Wal-Mart store. As American communities struggle to cope with budget shortfalls and a slowing economy, it is not surprising that many bend over backwards to bring Wal-Mart to town.

Unfortunately, communities often experience a much different reality. Studies have shown the retailer routinely drives down area wages and eliminates retail jobs. As local businesses close their doors, towns become more dependent on Wal-Mart for tax revenue. However, the company has developed elaborate mechanisms for avoiding its taxes, leaving our cities and towns high and dry.

Throughout this issue of In Depth, we examine the myriad ways that Wal-Mart avoids paying taxes or uses public dollars for its private endeavors. Many of these practices, while technically legal, effectively abdicate the responsibilities Wal-Mart agreed to when it negotiated to enter a community. This is unfair to the working men and women who shop at Wal-Mart and pay their taxes every day.

It is our hope that by exposing these practices, more and more communities can move to close the corporate tax loopholes Wal-Mart is currently exploiting. Read more about Wal-Mart's tax avoidance strategies, and then go to our website at <http://walmartwatch.com> to find out what you can do to help hold Wal-Mart accountable. Together we can strengthen our communities and level the playing field for all retailers.

Sincerely,



David Nassar  
Wal-Mart Watch

### THE GREAT TAX DODGE

## WAL-MART'S IMPACT ON COMMUNITIES

Aside from trying to avoid the taxes it owes, Wal-Mart drains public resources in several other ways. Several studies have shown that Wal-Mart lowers average retail wages, driving down a community's income tax revenue. And other studies suggest that the presence of a Wal-Mart store drives down home values, cutting into property taxes.

[“The Hidden Cost of Wal-Mart Jobs,” UC Berkeley Labor Center, Berkeley, CA. 8/4/04]



## IN THE NEWS

## TOP STORIES ON WAL-MART'S TAX STRATEGIES

[Always low taxes \[Virginia Daily Press, 2/26/08\]](#)

As the legislature struggles to bring state spending in line with lower-than-expected tax collections, it would be a shame to leave \$6.3 million on the table.

[LeRay, N.Y., facing suit brought by Wal-Mart \[Trading Markets, 2/22/08\]](#)

Wal-Mart Real Estate Business Trust and Wal-Mart Stores East LP is challenging its \$13 million assessment in state Supreme Court, saying the actual assessment should be less than half that amount, about \$5.7 million. The company filed the lawsuit in July.

[Court Rejects Tax Refund for Wal-Mart \[Charlotte Observer \(N.C.\), 1/7/08\]](#)

A Wake County judge has rejected Wal-Mart's bid to obtain a \$30 million tax refund from the state. In a ruling Friday, Judge Clarence Horton Jr. turned back the giant retailer's argument that the state improperly assessed its corporate income tax bill for the four fiscal years that ended in Jan.

[Wal-Mart May Appeal \\$33.5 Million North Carolina Court Decision \[Bloomberg News, 1/6/08\]](#)

Wal-Mart Stores Inc., the world's largest retailer, may appeal a judge's dismissal of its attempt to get a \$33.5 million refund from North Carolina's tax authorities.

[Judge Rules Against Wal-Mart Over Its Tax-Shelter Dispute \[Wall Street Journal, 1/5/08\]](#)

A North Carolina state-court judge ruled against Wal-Mart Stores Inc. in a closely watched tax-shelter case involving an arrangement in which the retailer essentially paid rent to itself and then deducted the amount from its taxes.

[Inside Wal-Mart's Bid To Slash State Taxes \[Wall Street Journal, 10/23/07\]](#)

In May 2001, Wal-Mart Stores Inc. issued an appeal to big accounting firms: Find us creative new ways to cut our state tax bills. Ernst & Young LLP swung into action.

[Study Says Wal-Mart Often Fights Local Taxes \[New York Times, 10/10/07\]](#)

Wal-Mart doesn't believe just in lower prices - it believes in lower property taxes, too. The big discount chain has sought to reduce the property taxes it pays on 35 percent of its stores and 40 percent of its distribution centers, according to a report to be released today by Good Jobs First.

[Wal-mart: The Low Tax Leader, Always \[Capital Times \(Wisc.\), 4/24/07\]](#)

The next time you make the not-so-scenic drive on U.S. 151 past the giant new Wal-Mart warehouse near Beaver Dam, keep this in mind: Wisconsin's largest employer draws more in corporate welfare than it pays in state taxes.

[Wal-Mart Cuts Taxes By Paying Rent to Itself \[Wall Street Journal, 2/1/07\]](#)

As the world's biggest retailer, Wal-Mart Stores Inc. pays billions of dollars a year in rent for its stores. Luckily for Wal-Mart, in about 25 states it has been paying most of that rent to itself -- and then deducting that amount from its state taxes.



*Continued from page 1*

Good Jobs First discovered this behavior in an intensive investigation of Wal-Mart's property tax behavior at more than 500 U.S. stores and distribution centers. We researched property tax records, and found what appears to be a company policy of systematically challenging assessments on both real property (buildings and land) and business personal property (fixtures and equipment).

### **Our key findings:**

- An examination of a 10% random sample of Wal-Mart's 2,833 supercenters and discount stores in operation as of the beginning of 2005 finds that at least one assessment challenge has been filed at 35% of the stores. Applying that rate to all Wal-Mart stores, we estimate that the company has brought challenges at more than 1,000 of its retail outlets nationwide.
- An examination of all of Wal-Mart's giant distribution centers in operation as of the same date shows that 40% have had an assessment challenge—this despite the fact that many of the warehouses had previously been granted property tax abatements when they were first built.
- At many locations, Wal-Mart has filed challenges in multiple years—either because it was not initially successful or because it wanted an even

bigger tax reduction. We estimate that the company has filed a total of more than 2,100 appeals at its stores and distribution centers nationwide.

As aggressive and persistent as Wal-Mart is in these challenges, the company frequently loses. In fact, when it comes to supercenters and discount stores, Wal-Mart is denied more assessment reductions than it is granted. Wal-Mart's win rate in appeals at these stores is only 45%. The rate at distribution centers is higher (64%), but the company still loses more than one-third of those cases.

Wal-Mart's mixed record can be attributed to the efforts of assessors such as those in Johnson County, Arkansas, the company's home state. When Good Jobs First phoned and said we were calling about Wal-Mart, a county official responded: "We just kicked their butt." The company had tried to get the valuation of its distribution center in Clarksville reduced from \$33 million to \$23 million. The county refused, so Wal-Mart sued. When we contacted the county, a circuit court had just ruled in its favor. "Wal-Mart pushes, pushes and pushes," a county official said, "but I'm not bowing down to them."

Thanks to such perseverance by local officials, the total dollar value of tax savings that Wal-Mart has achieved in its appeals has been kept

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KNOW YOUR FACTS ABOUT

## WAL-MART'S TAX AVOIDANCE STRATEGIES

DID YOU KNOW Wal-Mart has tried to pay U.S. taxes from an office in Italy? Even though the company conducts no business in Italy (there are no Wal-Mart stores and the company does not source products from the country) there's a small Wal-Mart office in Florence. Turns out that it's part of a company plan to reduce taxes in the state of Illinois. When regulators discovered this attempt to avoid taxes, Illinois charged the company "\$26.4 million in back taxes, interest and penalties." ["Why Wal-Mart Set Up Shop in Italy," *Wall Street Journal*, 11/14/07]



## TAX AVOIDANCE STRATEGY #2

# Captive REITs and the Case for Combined Reporting

By Michael Mazarov. Excerpted from "Growing Number of States Considering A Key Corporate Tax Reform," originally published by the Center for Budget and Policy Priorities.

**A GROWING NUMBER OF STATES** are giving serious consideration to a major reform in their corporate income taxes long advocated by state tax experts.

Most large multistate corporations are composed of a "parent" corporation and a number of "subsidiary" corporations owned by the parent. Combined reporting essentially treats the parent and most subsidiaries as one corporation for state income tax purposes. Their nationwide profits are combined — that is, added together — and the state then taxes a share of that combined income. The share is calculated by a formula that takes into account the corporate group's level of activity in the state as compared to its activity in other states.

By requiring corporate parents and subsidiaries to add their profits together, combined reporting states are able to nullify a variety of tax-avoidance strategies large multistate corporations have devised to artificially move profits out of the states in which they are earned and into states in which they will be taxed at lower rates — or not at all. These strategies cost the non-combined reporting states billions of dollars of lost corporate income tax revenue they need to finance essential public services, like education and health care. Households and small businesses, which do not have the opportunities or resources to engage in interstate income-shifting, end up paying higher taxes than necessary to make up for the taxes that large corporations are able to avoid.

## Wal-Mart's Approach

A recent front-page article in the *Wall Street Journal* underscores the need to take a comprehensive rather than piecemeal approach to the

corporate tax avoidance strategies to which non-combined reporting states are vulnerable.<sup>7</sup> The article discusses a tax shelter established by Wal-Mart that is analogous to the Passive Investment Company (PIC) but that would not be nullified by the targeted anti-PIC legislation that some states enacted. Indeed, the article revealed that Wal-Mart set up this shelter, known as a "captive Real Estate Investment Trust" (REIT), at approximately

*Attacking specific tax shelters that exploit this flaw is akin to treating the symptoms of a disease rather than the underlying defect that causes it.*

the same time it was liquidating its conventional PIC (perhaps because PICs had become a red flag for state auditors).<sup>8</sup> Wal-Mart transferred ownership of all its stores to its REIT subsidiary, and the stores paid tax-deductible rent to the REIT for use of the buildings they occupied. As with royalty payments for the use of trademarks, the rent payments had the effect of reducing taxable profits of the stores and shifting the profits to the REIT. Virtually all states effectively treat the REIT as a tax-exempt entity — just as the federal government does. And the other Wal-Mart subsidiary that owned the REIT was only taxable in the state in which it was based, so the states where Wal-Mart's stores were located couldn't reach the REIT's profits when those were passed on in the form of dividends to the REIT's owner, either.

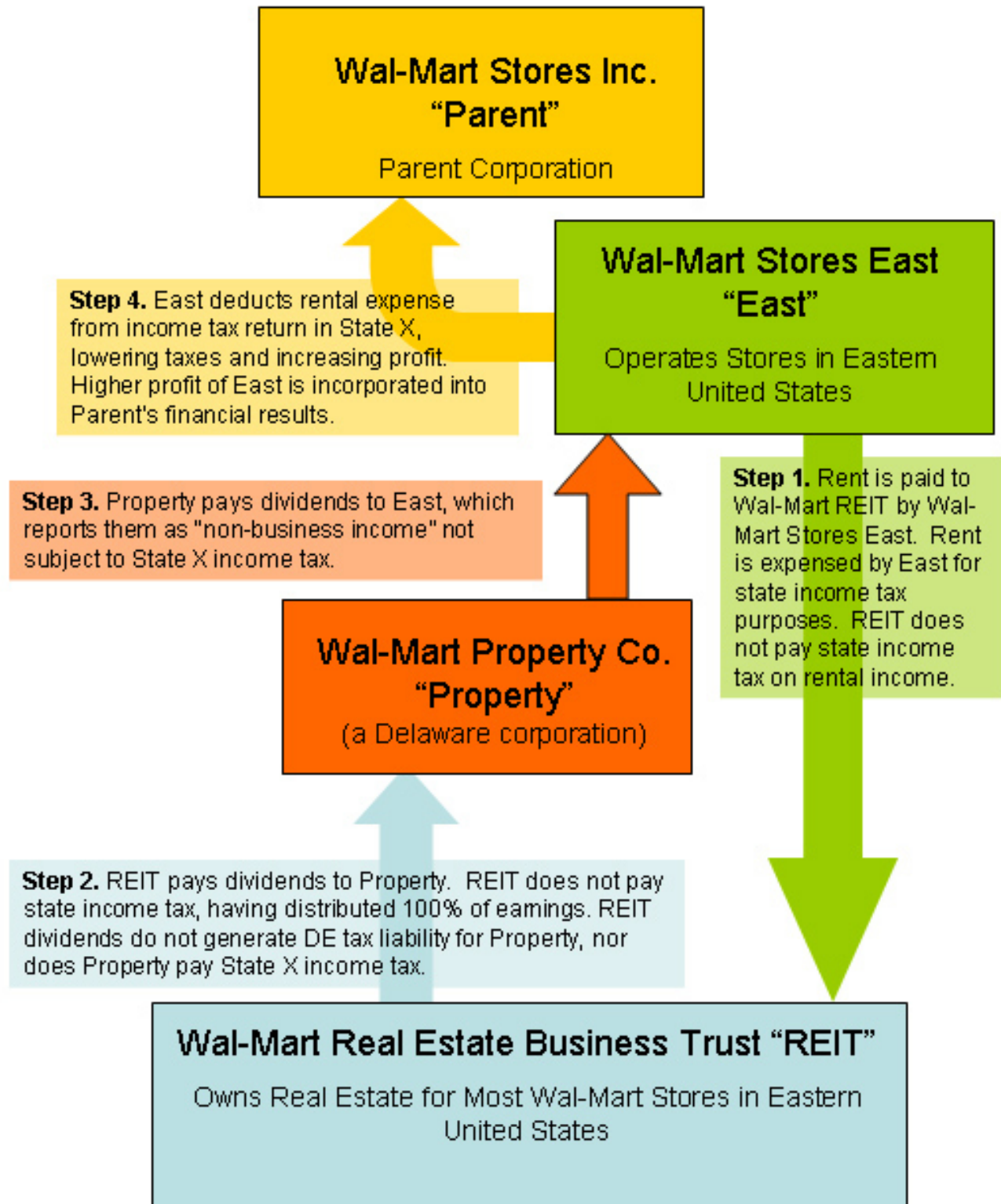
The corporate income taxes of states that do not mandate combined reporting are fundamen-

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## How Captive REITs Work

Wal-Mart's corporate tax structure is obviously complex - and that's how the company wants it. The chart below helps illustrate the different parties involved in a REIT strategy. The fact that all parties are owned by Wal-Mart raises questions about legality of this concept.



## How do captive REIT strategies impact communities?

Tax-avoidance strategies like Wal-Mart's captive REITs not only provide an unfair advantage for national corporations, they also make smaller local companies pay more than they owe. As the *Des Moines Register* stated in 2004:

"The appropriate tax rate of business certainly is debatable, but everyone should agree those companies should pay the full taxes they owe, and multistate corporations shouldn't have a tax advantage over wholly local corporations. Last year [former Governor] Vilsack proposed combined reporting to lawmakers, but it didn't get anywhere. . . . That's unfortunate. . . . Ensuring taxes are collected by closing a loophole that's unfair to Iowa-based businesses should be a bipartisan no-brainer." ["First, Close Loopholes," *Des Moines Register*, February 20, 2004.]

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tally flawed because they permit intra-corporate transactions to affect how much income tax a corporation owes to a particular state. Attacking specific tax shelters that exploit this flaw is akin to treating the symptoms of a disease rather than the underlying defect that causes it.

### **Why Combined Reporting Is Important**

The primary goal of combined reporting is to create a level playing field for all businesses. It seeks to ensure that large multistate corporations cannot end up paying income tax at a lower effective tax rate than small businesses by subdividing themselves into separate corporations and then manipulating transactions within the overall corporate group.

Because such manipulations appear to be widespread and because combined reporting nullifies their tax effects, most states that have studied the fiscal impact of combined reporting have concluded that its adoption would raise some additional revenue. In states that need new revenue sources, requiring combined reporting could certainly make a modest contribution toward that objective. Most states that have prepared estimates conclude that the adoption of combined reporting would increase corporate income tax receipts on the order of 10 to 25 percent.

### **Growing Interest in Combined Reporting**

Sixteen states — slightly more than one third of the states with corporate income taxes — have mandated and successfully used combined reporting for decades. Until recently, however, that group had not expanded at all — not even after the U.S. Supreme Court ruled in 1983 that combined reporting was a fair and constitutional method of taxing multinational (and, by extension, multistate) corporations.

That inertia is now being overcome. Four states have enacted combined reporting legislation in the past three years alone, and serious consideration of combined reporting is occurring or has occurred in a number of other states, including Florida, Iowa, Maryland, Massachusetts, Michigan, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Texas, Vermont, and West Virginia.

As policymakers in non-combined reporting states ponder their states' ongoing vulnerability to a variety of aggressive corporate tax shelters — such as Wal-Mart's "captive REIT" — and objectively examine the decades-long experience of 16 states with this policy, the number of states requiring combined reporting seems likely to grow. ■



## TAX AVOIDANCE STRATEGY #3

## WAL-MART AND ECONOMIC DEVELOPMENT SUBSIDIES:

## \$1.2 Billion and Counting

By Philip Mattera, Good Jobs First

**DESPITE ENJOYING SOME \$375 BILLION** in annual revenues and \$13 billion in profits, Wal-Mart continues to turn to U.S. taxpayers to help fund its expansion. The company is one of the most frequent recipients of economic development subsidies from state and local governments across the country.



In 2004 Good Jobs First issued the first detailed study of Wal-Mart's use of these subsidies. While comprehensive information is not available, we gathered data showing that the company has received a cumulative total of more than \$1 billion in such public assistance. Last year, we updated that research, documenting an additional 39 subsidy deals worth more than \$200 million. We then assembled both the old and the new data on a

new searchable website called Wal-Mart Subsidy Watch ([www.walmartsubsidywatch.org](http://www.walmartsubsidywatch.org)).

In announcing the website, we issued a press statement noting: "What we said in 2004 still holds true today: Wal-Mart presents itself as an entrepreneurial success story, yet it routinely gets big tax breaks, free land, cash grants and other forms of taxpayer assistance."

To understand Wal-Mart's current approach to subsidies, it is helpful to look at what we found in our updated research. The new subsidy deals benefit 30 stores and 9 distribution centers in 15 states. The stores (all but one of which are supercenters combining groceries and general merchandise) accounted for about \$190 million of the \$220 million total, an average of about \$6 million per store. The distribution centers accounted for about \$30 million, an average of about \$3 million per facility. The distribution center amount is understated, because several warehouses will enjoy enterprise zone benefits, the value of which cannot be estimated before the centers open and begin hiring.

The state with the most new deals was Illinois with nine. It was followed by Florida and Missouri with four each; Arizona, California and Kansas with three each; and Colorado, Indiana, Louisiana and Ohio with two each. Alabama, Maryland, Minnesota, Texas and Wyoming each had one recent deal. Illinois also accounts for the most deals in the entire Wal-Mart Subsidy Watch database with 38. Following it are Texas (29), Missouri (23), Louisiana (20) and California (18).

The most common type of subsidy we found  
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among the new deals was infrastructure assistance, which occurred in 21 facilities and accounted for \$124 million of the total subsidies (with the money usually raised through tax increment financing, or TIF). The second most significant type, by value, was sales tax rebates, which went to ten stores and totaled \$55 million.

These rebates occur when a locality allows Wal-Mart to keep a significant portion of the sales taxes it collects from customers that would normally go to local government. We saw few such rebates in our previous work. This new trend suggests that Wal-Mart increasingly seeks to be subsidized directly by its customers, even though it often brags about how much money it saves them.

As with our findings in 2004, the updated totals have to be regarded as incomplete, given that the quality of disclosure of development subsidies is poor in most states. In most cases, we learned of deals first through articles in local newspapers. We then interviewed local officials and obtained documents to confirm the facts and get additional details. Although it was not practical to contact local officials in each of the hundreds of communities in which Wal-Mart opened new stores each year, Good Jobs First did contact officials in all the communities in which new distribution centers have been announced over the previous three years. Subsidies were found for nine of the ten (the exception being Storey County, Nev.).

While all of the distribution center subsidies directly benefited Wal-Mart or its affiliates and subsidiaries, some of the deals for retail projects went through the developers of shopping centers in which Wal-Mart stores serve as anchors. Good Jobs First regards these as, in effect, subsidies to Wal-Mart, since they help make possible the company's expansion. Moreover, by reducing land acquisition and site preparation costs for developers, the subsidies presumably lead to lower rents for Wal-Mart.

The Wal-Mart Subsidy Watch website can display state summaries as well as details of individual

## WAL-MART'S RELIANCE ON PUBLIC HEALTH CARE

Wal-Mart relies on public funds in other ways as well. The world's largest corporation, which recently earned \$100 billion in a single fiscal quarter and has more than 1.3 million workers in the U.S., does not pay for health insurance for almost half its workers. Instead, the company forces hundreds of thousands of employees to rely on government programs such as Medicaid and state-funded children's health insurance.

- Wal-Mart tops the list of companies having the most employees on taxpayer-subsidized state health programs.
- Wal-Mart sales clerks earn an average of \$14,000 annually and are offered healthcare plans that include a \$1,000 out-of-pocket deductible.
- On average, U.S. employers spend \$5,600 per worker on health care annually. Wal-Mart spends only \$3,500.

Who pays for Wal-Mart workers' health care? Wal-Mart, right? No, we all do.

subsidy deals. It also has extensive rankings of both older and recent subsidy deals, including a list of the largest nationwide, the largest in each state and the largest in each category. It also has rankings of the states by the number of deals and value of deals.

We hope it is a useful tool both for those researching the subsidies Wal-Mart has already received and those campaigning to prevent the company from receiving more taxpayer money. ■



## TAX AVOIDANCE STRATEGY #4

**Wal-Mart Pays \$208,678 for Lobbyists in Massachusetts***by Al Norman*

Al Norman is a writer and big box activist living in Massachusetts. This piece originally appeared online on the Huffington Post.

**FORGET EVERY DAY LOW PRICES.** Wal-Mart has been paying high-priced lobbyists to keep the company from having to pay its fair share of income tax to the Commonwealth of Massachusetts.

Wal-Mart paid nearly a quarter of a million dollars last year to a small army of eight lobbyists to push its agenda with Beacon Hill lawmakers in 2007. The retailer's 'high-priced' lobbying tab for 2007 came to \$208,678—five times what the company spent the previous year.

According to research conducted by Sprawl-Busters, a Greenfield, MA-based anti-Wal-Mart clearinghouse, Wal-Mart hired three separate lobbying firms, plus its own Public Affairs Manager, as lobbyists:

- Bay State Strategies Group, LLC of Natick was paid \$53,200 by Wal-Mart, which went to three of its lobbyists: David Shapiro, Frank Shea, and Robert Bernstein.
- Holland & Knight, LLP of Boston, also had Wal-Mart as a client in 2007. The firm was paid \$26,600 by Wal-Mart for the services of the same three lobbyists.
- Johnson Haley, LLP of Boston, was the big winner of Wal-Mart payments, receiving a total of \$128,503 for the services of four lobbyists: Stephanie D. Neal-Johnson, Pierce J. Haley, Andrea Serlin, and Martin Fisher.

In addition, Wal-Mart registered its own New England public affairs manager, Christopher Buchanan, of Plymouth, as a lobbyist.

In 2005, Wal-Mart spent only \$40,800 on lobbying, and in 2006, only \$43,220. But in 2007, the retailer unlocked the corporate treasury. According to Sprawl-Busters, 2008 will again be a record-setting year because of the company's efforts to block legislation that would force it to pay its fair share in state income tax.



Wal-Mart retained at least 8 lobbyists to ply its issues on Beacon Hill, which ranged from legislation regulating the retailer's credit cards, to preventing big box stores from selling gasoline below cost. Wal-Mart weighed in on bills related to electronic identity theft, the use of radio frequency identification devices, and private check cashing services.

But the retailer also paid Bay State Strategies and Holland & Knight to lobby against H. 3756, Governor Deval Patrick's "Act Improving the Fairness of the Tax Laws." The Governor's bill contains a provision that would require Wal-Mart to pay millions of dollars in state income taxes that the retailer

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has dodged by creating “sham transactions” that it pays to itself.

H. 3756 would close this tax loophole, forcing Wal-Mart to pay at much as \$5 million in state taxes that it has previously dodged. Patrick refiled his legislation in January, 2008, saying, “Under the current system, small businesses are at a disadvantage, while larger corporations avoid paying their fair share.” One of the main larger corporations not paying its fair share is Wal-Mart. And the corporation is paying big bucks to lobbyists to keep it that way. According to the Governor’s office, closing this one loophole would generate another \$271 million in revenues for the Commonwealth in FY 2008.

On December 28, 2007, the Commonwealth’s Study Commission On Corporate Taxation, reported that multi-state corporations like Wal-Mart were allowed to “shift income out of corporations engaged in business in the Commonwealth to affiliates in low-tax jurisdictions, thus reducing Massachusetts taxes paid.” The legislation opposed by Wal-Mart eliminates this shifting of income by adopting “combined reporting,” under which affiliated corporations engaged in unitary business activities combine their incomes and apportionment factors and file as one entity.”

The Study Commission concluded that “combined reporting would modernize the corporate tax structure in the Commonwealth and would reduce opportunities for tax avoidance through transactions among affiliated corporations.”

Twenty other states have adopted combined reporting. States that have recently adopted it include Vermont, New York, and West Virginia, and its adoption has been proposed in Maryland, Michigan, New Mexico, North Carolina, and Pennsylvania. North Carolina recently won a combined reporting tax verdict in state courts that will cost Wal-Mart \$33 million. The retailer has appealed that decision.

In Massachusetts, according to Sprawl-Busters estimates, the retailer says it paid nearly \$19 million in state and local taxes in 2006. Assuming roughly \$11 million of that was state income tax, the retailer also avoided \$5.4 million by deducting rent it paid to its Delaware-based REIT as a business expense, lowering its taxable income. The company also cost taxpayers \$7.2 million in health care costs for 6,000 Wal-Mart workers and dependents on Medicaid.

Based on a scheme developed by its accounting firm, Ernst & Young, for a “local tax reduction strat-

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## NOTABLE QUOTES

### WAL-MART SPENDS MILLIONS ON LOBBYING

In an interview with the Financial Times recently, CEO Lee Scott admitted that Wal-Mart isn’t satisfied to simply play by the rules. The company has spent millions of dollars in the last few years on public relations...and lobbying.

*Wal-Mart had to change the way it dealt with the outside world to become, as [Scott] repeatedly says, more “sophisticated”. It now has one of the largest media departments of any US company, and spends millions on lobbying in Washington.*

*“It didn’t matter if we said ‘well, we’re just from Arkansas’, it just wasn’t going to play. No matter how much we hoped the attention would go away, the world was different. And all of us had to grow and change.” [I had to go out and meet with people who just did not like us; Financial Times, 4/4/08]*



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egy," Wal-Mart's financial self-dealing allows it to pay rent to itself through a maze of eight corporate subsidiaries created in November of 1996, including Real Estate Investment Trusts (REITs). The rent appears as an expense on state tax forms, and is thus deducted from its taxable revenues.

Under the agreement with itself, Wal-Mart pays 2.5% of gross sales monthly as rent to its own REIT, which then wires the money quarterly to Wal-Mart Property Company in the form of a dividend, which is then paid to Wal-Mart Stores as a tax-exempt "dividends received." All of these transactions are handled through a "cash management agreement" between all the parties. Neither the REIT nor the Property Company ever had any employees.

The REITs don't pay taxes, as long as they pay 90% of their income out in dividends to shareholders. In Wal-Mart's case, the REITs are owned by Wal-Mart subsidiaries which are registered in Dela-

ware, a state that has no corporate income tax. Wal-Mart gets the benefit of the rent expense, but also gets the benefit of the non-taxed dividend, on the same monies. The dividends escape taxation, and the original rent that created the dividends is deducted from taxable income in the states where the "expense" is incurred. The rent, in essence, goes from one Wal-Mart pocket, into another.

This is a major loophole that Wal-Mart doesn't want closed. It's more cost-effective for the company to shell out a couple hundred thousand in lobbying fees to protect several million in tax avoidance. But the rest of Massachusetts taxpayers are the ones who pay for Wal-Mart's slack. Because Governor Patrick has included his corporate combined reporting bill as part of his fiscal year 2008 budget, now before the General Court, Wal-Mart is expected to spend a record amount in 2008 to keep its tax loophole open. That's good news for Wal-Mart's lobbyists. ■

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to a moderate level. We estimate the company's cumulative tax savings nationwide for all Supercenters and discount stores at about \$23 million; for all distribution centers the amount is about \$6 million. This puts Wal-Mart's total cumulative tax savings in the neighborhood of \$30 million, or roughly \$3 million a year over the last decade. The amounts it seeks through its challenges are much higher.

Although Wal-Mart's overall campaign to downsize its property tax payments is often blunted, the company has enjoyed substantial gains in many individual communities. For example, in 2004 Wal-Mart proposed that the assessment of its distribution center in Tomah, Wisconsin be lowered from \$43.6 million to \$23 million. The city resisted, but Wal-Mart kept up the

pressure. Last year the matter was finally settled, with the city agreeing to drop the assessment to \$31.4 million and refund the company more than \$300,000 for each of three years—a total of \$949,000.

To Wal-Mart, we say: cease your assault on property taxes. If you really care about the communities in which you operate, you should forget about assessment challenges and pay your tax bills in full without complaint. You can easily afford to do so, and the amounts involved mean a lot more to those communities than to your enormous bottom line.

The Good Jobs First report Rolling Back Property Tax Payments can be found at <http://www.goodjobsfirst.org/pdf/walmartproptax.pdf> ■



## FREQUENTLY ASKED QUESTIONS ABOUT

**WAL-MART'S TAX AVOIDANCE STRATEGIES****1. What are the different kinds of taxes Wal-Mart tries to avoid paying?**

Wal-Mart has used multiple strategies, including trademark holding companies and captive Real Estate Investment Trusts (REITs) to avoid state corporate income taxes, and has challenged property taxes at an alarmingly high rate. Data from the Securities and Exchange Commission shows that Wal-Mart has paid only about half the state statutory rates over the past decade. In Wisconsin, for example, the state corporate income tax rate is 7.9%. Between 2000 and 2003, Wal-Mart paid \$3 million in taxes on \$852 million in net profits – a rate of less than one-half of one percent.

**2. How does Wal-Mart do this?**

Wal-Mart utilizes complicated tax schemes developed by its financial advisor - in this case - the accounting firm of Ernst & Young. Two strategies frequently used by Wal-Mart are trademark holding companies and captive REITs. A trademark holding company typically involves transferring a company's trademarks, trade names, and service marks to a separately incorporated but wholly owned out-of-state subsidiary, which then licenses the marks back to the original company. With Wal-Mart's captive REIT, the company transferred property ownership of its land and stores in 27 states over to its REIT which ultimately leased them back to Wal-Mart. Both schemes allowed Wal-Mart to turn rental payments to itself into state-deductible expenses, despite the fact that the money never left the company.

**3. How do Wal-Mart's tax strategies damage our communities?**

Wal-Mart receives substantial benefits from the states in which its stores exist. The company utilizes public services including police and fire protection, court systems, public schools and public health assistance for employees and their children, not to mention transportation systems and highways to transport goods, etc. By distorting its income, Wal-Mart shifts its own tax burdens to individuals and small businesses that are unable to set up such elaborate systems. Currently, many states are suffering budget deficits and every dollar counts when roads need repair, schools need books, and the health care costs continue to rise.

**4. Don't all big companies do this? Is Wal-Mart any worse than any other corporations?**

While other companies do in fact work to minimize their tax payments, none approach the scale to which Wal-Mart has done so. Considering Wal-Mart's size – the nation's largest private employer and many states' largest private employer - the impact of these various tax avoidance methods is much larger and more widespread than that of other corporations. These tax strategies combined with Wal-Mart's relentless pursuit of building subsidies and tax breaks, and the retailer's systematic challenge of property tax assessments results in substantial damage to states and local communities.

**5. How can I help close corporate tax loopholes?**

Contact your State Legislators as well as your Governor, and tell them that you would like combined reporting in your state, so that companies like Wal-Mart are forced to pay their fair share of taxes. ■



## WAL-MART IN THE NEWS

# WINTER 2008

### [Kansas Firm Airs Candid Wal-Mart Videos \[Associated Press, 4/10/08\]](#)

Wal-Mart's internal meetings are on display in three decades worth of videos made by a Kansas production company scrambling to stay in business after Wal-Mart stopped using the firm.

### [Candid Camera: Trove of Videos Vexes Wal-Mart \[Wall Street Journal, 4/9/08\]](#)

For nearly 30 years, Wal-Mart Stores Inc. employed a video-production company here to capture footage of its top executives, sometimes in unguarded moments. Two years ago, the retailing giant stopped using the tiny company.

### [Wal-Mart Drops Lawsuit Over Health-Care Reimbursement \[AP via Wall Street Journal, 4/2/08\]](#)

Wal-Mart Stores Inc. is dropping a controversial effort to collect over \$400,000 in health-care reimbursement from a former employee who is confined to a southeast Missouri nursing home since she suffered brain damage in a traffic accident.

### [Wal-Mart Savings Ads Assailed \[New York Times, 3/31/08\]](#)

Wal-Mart, the ads claim, saves the average family \$2,500 a year. The implication seems clear: shop at Wal-Mart, save money, and you can afford to splurge.

### [Brain-damaged woman at center of Wal-Mart suit \[CNN 360, 3/25/08\]](#)

The Shanks didn't notice in the fine print of Wal-Mart's health plan policy that the company has the right to recoup medical expenses if an employee collects damages in a lawsuit.

### [Despite Marketing, Wal-Mart Declares: 'We Are Not Green' \[Wall Street Journal, 3/14/08\]](#)

Yesterday morning at The Wall Street Journal's ECO:nomics conference on the environment and business in Santa Barbara, Calif., Mr. Scott took some attendees aback by declaring: "We are not green."

### [Bills Give Labs Job Of Finding Risks In Kids' Products \[Wall Street Journal, 3/7/08\]](#)

A bill approved yesterday by the Senate -- as well as a similar bill already passed by the House -- aims to plug holes in the government's consumer safety net that have been letting hazardous products aimed at children slip through.

### [Wal-Mart Ranks Lowest Among Discounters in Survey \[Bloomberg News, 2/19/08\]](#)

Wal-Mart Stores Inc. ranked lowest among U.S. discounters and department store chains in an annual survey of customer satisfaction as shoppers said they found less value in the world's largest retailer's prices.

### [Wal-Mart Sharpens Vision \[Washington Post, 1/24/08\]](#)

Wal-Mart chief executive H. Lee Scott Jr. on Wednesday laid out ambitious plans to improve health care, put less stress on the environment and set high standards for suppliers, as the world's largest retailer attempted to show it cares as much about social responsibility as low prices.





WAL★MART**WATCH**

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Wal-Mart Watch is a nationwide public education campaign to challenge the world's largest retailer to become a better employer, neighbor and corporate citizen. We bridge the gap between ordinary citizens and community organizations concerned about Wal-Mart's unchecked growth and negative impact on our society. We challenge Wal-Mart to embrace its moral responsibility as the nation's biggest and most important corporation.