



STATE OF NEW MEXICO
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FOR IMMEDIATE RELEASE
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Wal-Mart Corporate Income Tax Assessment Upheld

SANTA FE – On May 1, 2006, the hearing officer for the New Mexico Taxation and Revenue Department issued a 41 page Decision and Order upholding the assessment of \$11,630,226 in corporate income tax against Wal-Mart Stores, Inc. The assessment arose out of Wal-Mart's creation of a holding company in Delaware in 1991 called WMR, Inc. In her Decision and Order, the hearing officer noted that WMR was created for the primary purpose of reducing state income taxes for Wal-Mart Stores, Inc. Because WMR confined its operations to Delaware, a state which does not tax such income, Wal-Mart Stores, Inc. believed that WMR could shelter Wal-Mart Stores' income from taxation by most states.

Rather than challenge the legitimacy of the business purpose for the formation of WMR, New Mexico assessed WMR itself for corporate income taxes, contending that the holding company was subject to New Mexico's tax jurisdiction because of its licensing activity within the state. The Department also argued that the equitable apportionment provisions of the state's tax code allowed sourcing of WMR's income to the state. Those two legal positions were recently upheld by the New Mexico Court of Appeals in the case of *Kmart Corporation v. Taxation and Revenue Department*, 2006 NMCA-026, *cert. quashed*, 2006 NMSC-006 (December 29, 2005).