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VAST MAJORITY OF LARGE NEW MEXICO CORPORATIONS ARE ALREADY SUBJECT TO "COMBINED REPORTING" IN OTHER STATES

Fears of Job Loss from Reducing Corporate Tax Avoidance Are Unwarranted

By Michael Mazerov

For the past several years, there has been serious discussion in New Mexico of adopting an important reform in the state corporate income tax known as mandatory "combined reporting." Some New Mexico corporations have opposed this change, suggesting that it could result in some companies leaving the state or shunning New Mexico for new investment. However, the vast majority of the largest multistate corporations with facilities and employees in New Mexico quite willingly subject themselves to combined reporting in the 23 *other* states that already mandate it.

At least 71 of the 78 multistate corporations that have 250 or more employees in New Mexico also maintain a facility in at least one state that mandates combined reporting; those corporations therefore are already calculating income tax under combined reporting rules in other states. A majority of these corporations — 48 of the 78 — have facilities in five or more combined reporting states.

Most large corporations consist of a parent corporation and its subsidiaries. Combined reporting effectively treats the parent and most or all of its subsidiaries as a single corporation for state income tax purposes. In doing so, combined reporting nullifies a wide array of tax-avoidance strategies large multistate corporations have devised to artificially move profits out of the states in which they are earned and onto the books of subsidiaries located in states that will tax the income at a lower rate — or not at all.[1] New Mexico has lost substantial revenue due to these strategies. The absence of mandatory combined reporting has made it more difficult for the state to collect the revenue it is legally owed; the state was forced to litigate a case all the way to the state Supreme Court to shut down an abusive tax shelter put in place by Kmart, and it also faced a legal challenge from Wal-Mart. If combined reporting had been mandatory, these costly cases would have been unnecessary.

Some 16 states have mandated the use of combined reporting for at least two decades; seven more have put it into effect since 2004. The Governor's 2003 Blue Ribbon Tax Reform Commission recommended that New Mexico require combined reporting, and bills to implement it have been introduced repeatedly in recent years — most recently Senate Bill 90/House Bill 62 on January 20, 2010.[2]

Representatives of some major multistate corporations doing business in New Mexico have expressed opposition to combined reporting, suggesting that it will subject them to difficult and costly tax compliance burdens and possibly lead to job losses as major employers leave the state or reject it for future investments.[3] Despite the growing number of states adopting this policy and the Blue Ribbon Tax Reform Commission's previous endorsement, some current members of the legislature may be reluctant to mandate the use of combined reporting out of concern that it will adversely affect the state's economy.

This study presents compelling evidence that such concerns are unwarranted. It summarizes the results of a careful examination of the states in which the 78 largest New Mexico employers potentially affected by combined reporting have physical facilities and therefore are clearly subject to the states' corporate income taxes. As documented in Figure 1, the study finds that:

- At least 71 of the 78 largest New Mexico employers examined (multistate corporations with at least 250 New Mexico employees) maintain facilities in at least one combined reporting state or are a member of a corporate group that has a facility in at least one combined reporting state. The "compliance burdens" and tax liabilities arising from combined reporting cannot be that unreasonable if these companies — or the parent corporation that controls their decision-making — have willingly maintained a facility in one or more combined reporting states.

- Many of the corporations examined maintain facilities in *multiple* combined reporting states. More than half — 48 out of 78 — have facilities in five or more combined reporting states, 27 have facilities in ten or more such states, and 20 companies have facilities in 15 or more CR states.

- Six companies have facilities in *all 23* combined reporting states.

- Eighteen of the companies maintain their *headquarters* in combined reporting states, including Boeing, Genzyme, Intel, Motorola, Target, and Wells Fargo.

Taken together, these facts provide compelling evidence that New Mexico's adoption of combined reporting would not lead these companies to remove facilities or shun the state as a location for future investments.

There are seven states that have implemented combined reporting only since 2004, three of them (Massachusetts, West Virginia, and Wisconsin) only as of January 1, 2009. It might reasonably be argued that the presence of facilities in those states cannot be cited as evidence that combined reporting does not affect corporate location because companies have not had enough time to react to the change by moving their facilities. In fact, as shown in Figure 1 (where these seven states are isolated in the right-most columns), 67 of the 71 companies with a facility in at least one CR state have a facility in one of the CR states that enacted this policy *prior to 1985*.

It would take considerable effort to determine *when* the facilities identified in this report were sited in combined reporting states, and such an investigation is beyond the scope of the study. However, given that 16 states have mandated the use of combined reporting for 20 years or longer, it seems reasonable to assume that many of these corporations sited their facilities in CR states *after* the state adopted combined reporting. It also seems reasonable to assume that many of these same facilities

FIGURE 1

Most Large New Mexico Employers Are Already Subject to Combined Reporting in Other States

New Mexico Employer [Parent Corp.]	Long-Time Combined Reporting (CR) States																New CR States							# of CR States	HQ
	AK	AZ	CA	CO	HI	ID	IL	KS	ME	MN	MT	NE	NH	ND	OR	UT	MA	MI	NY	TX	VT	WV	WI		
ABF Freight System [Arkansas Best]	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
Advanced Care Hosp. [Ernest Health]		■		■		■					■					■				■				6	
Agave Energy [Yates Petroleum]				■																				1	
Albuq. Auto Auction [Manheim/Cox]		■	■	■	■		■			■		■			■	■	■	■	■	■			■	14	
Alta Vista Reg. Hosp. [Comm. Hlth Sys]	■	■	■	■			■								■	■				■		■		9	
B&H Maintenance [InfrastruX Group]		■		■			■										■	■	■	■	■		■	9	
Bank of America	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
BHP Billiton/Minerals		■	■																	■				3	
Boeing		■	■				■	■												■				5	IL
Border Foods																				■				1	
Cardinal Health	■	■	■	■		■	■	■	■	■		■			■	■	■	■	■	■		■	■	18	
Carlsbad Med. Ctr. [Comm. Hlth Sys]	■	■	■	■			■								■	■				■		■		9	
CNI Admin. Svcs LLC [Chickasaw Ntn.]																								0	
Coca-Cola Bottling [Coca-Cola Enterpr.]		■	■	■	■		■	■		■	■	■		■			■	■	■	■			■	15	
Comcast		■	■	■		■	■	■	■	■			■		■	■	■	■	■	■	■	■	■	18	
ConocoPhillips	■	■	■	■	■		■	■		■	■	■		■	■	■	■	■	■	■		■		18	TX
Coordinated Home Health Care Corp.																				■				1	
Data Com Sciences [Chickasaw Ntn.]																								0	
Desert Hills [YFCS, Inc.]		■																		■				2	TX
Eastern NM Med Ctr. [Comm. Hlth Sys]	■	■	■	■			■								■	■				■		■		9	
Ethicon Endo Surgery [J&Johnson]			■														■		■					3	
Express Scripts/Value Rx	■		■	■						■								■	■	■				7	
Flint Energy Services				■												■				■		■		4	
Foamex			■	■								■			■					■				5	
Freeport-McMoRan		■		■																■				3	AZ
GE Aviation [General Electric Co.]	■	■	■	■	■		■	■	■	■		■	■		■	■	■	■	■	■	■		■	19	
Genzyme Genetics		■	■																■	■			■	5	MA
Goodrich Corp		■	■	■			■	■		■				■	■	■	■		■	■	■	■		14	
H&R Block	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
Healthsouth Rehabilitation Center		■	■	■			■	■	■				■			■	■			■		■		11	
Heart Hosp. of NM [MedCath Corp]		■	■																	■				3	
Holly Corporation		■				■										■				■				4	TX
Home Instead Senior Care	■	■	■	■			■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	21	NE
Honeywell Aerospace [Honeywell Intl]		■	■				■	■		■									■	■				7	
Intel Corporation		■	■	■											■	■	■			■				7	CA
JB Henderson Construction		■		■																				2	
JC Penney Co.	■	■	■	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	22	TX

FIGURE 1 Continued

Most Large New Mexico Employers Are Already Subject to Combined Reporting in Other States

New Mexico Employer [Parent Corp.]	Long-Time Combined Reporting (CR) States																New CR States							# of CR States	HQ
	AK	AZ	CA	CO	HI	ID	IL	KS	ME	MN	MT	NE	NH	ND	OR	UT	MA	MI	NY	TX	VT	WV	WI		
Kemtah Group, Inc.			■																					1	
Key Energy Services			■	■							■			■		■		■		■		■		8	TX
Kindred Hospital [Kindred Healthcare]		■	■	■		■			■		■		■		■	■	■			■	■		■	13	
Kinetico																								0	
Klinger Constructors																								0	
Ktech Corp/Tech Reps																								0	
Lea Regional Med. [Comm. Hlth Sys]	■	■	■	■			■								■	■				■		■		9	
Leprino Foods			■	■								■							■					4	CO
Los Alamos Med Ctr [Lifepoint Hosp]		■		■				■								■				■		■		6	
Lovelace Medical [Ardent Health Svcs]																								0	
Lowes	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
Memorial Med Ctr [Lifepoint Hosp]		■		■				■								■				■		■		6	
Mimbres Mem. Hosp. [Comm. Hlth Sys]	■	■	■	■			■								■	■				■		■		9	
Molina Healthcare			■													■		■		■				4	
Mosaic Potash							■			■								■		■				4	
Motorola Inc.		■	■				■									■	■		■	■				7	IL
Mtn. View Reg. Med. [Comm Hlth Sys]	■	■	■	■			■								■	■				■		■		9	
Navajo Refining Co. [Holly Corp.]		■				■										■				■				4	TX
Patterson-UTI Drilling				■										■		■				■		■		5	TX
Peak Hosp/Beh. [Psychiatric Solutions]		■	■	■		■	■			■				■		■		■		■		■		11	
PNM Electric & Gas/Resources/San Juan																				■				1	
SAIC Inc.	■	■	■	■	■	■	■	■		■	■	■	■		■	■	■	■	■	■		■	■	20	
SED Medical Labs [Ardent Health Svcs]																								0	
Servicemaster		■	■				■			■		■			■		■	■	■	■		■	■	12	
Sitel									■			■							■	■		■		5	
Southwest Airlines		■	■	■		■	■			■		■	■		■	■	■	■	■	■			■	15	
Sun Healthcare [Sunbridge Healthcare]		■	■	■		■					■		■			■	■					■		9	
Sunland Construction				■																■				2	
Sysco Food Svc of NM	■	■	■	■	■	■	■	■	■	■	■	■		■	■	■	■	■	■	■			■	20	
Target	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■		■	■	22	MN
Thomas & Betts Corp.			■																■	■			■	4	
Tricore Reference Laboratories																				■				1	
Victoria's Secret Direct	■		■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	22	
Wagner Equipment/Power Systems				■																■				2	
Wal Mart	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	
Washington Tru Solutions	■	■	■	■	■	■	■						■			■		■	■	■		■	■	14	
Wells Fargo	■	■	■	■		■	■	■		■	■	■		■	■	■	■	■	■	■			■	18	CA
Western Dairy Transport								■								■				■				3	
Whole Foods		■	■	■	■		■	■	■	■		■			■	■	■	■	■	■			■	16	TX
Yates Petroleum				■																				1	
Yellow Freight Sys. [YRC Worldwide]	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	23	KS

have been expanded and/or modernized since the initial siting decision was made. In other words, not only have 67 of the 71 companies chosen not to abandon the long-time CR states, it seems likely that many or most of them have chosen to locate or expand in such states fully cognizant of the fact that the state had implemented this policy. If this is true, it provides further evidence that New Mexico would not be harming its economic prospects by enacting this important corporate income tax reform.

Table 1: Manufacturing Job Change, 1990-2007 7 of 8 States with Net Job Gains Had Combined Reporting (CR) in Effect	
North Dakota (CR)	**66.7%**
Idaho (CR)	**26.0**
Utah (CR)	**23.3**
Iowa	4.8
Montana (CR)	**4.6**
Kansas (CR)	4.5
Nebraska (CR)	**4.1**
Arizona (CR)	**2.9**
Oregon (CR)	**0.0**
Minnesota (CR)	**-0.1**
Texas	-1.4
New Mexico	-2.4
Oklahoma	-3.5
Wisconsin	-4.3
Kentucky	-6.2
Alaska (CR)	**-7.1**
Indiana	-9.2
Louisiana	-10.5
Arkansas	-13.7
Colorado (CR)	**-14.0**
Vermont	-15.7
Georgia	-17.6
Alabama (Median State)	-18.4
New Hampshire (CR)	**-20.9**
Florida	-21.8
Tennessee	-23.4
Missouri	-23.6
California (CR)	**-25.5**
Mississippi	-26.1
Illinois (CR)	**-26.1**
Hawaii (CR)	**-26.2**
Ohio	-27.1
Delaware	-27.1
Virginia	-28.0
West Virginia	-28.0
South Carolina	-28.1
Pennsylvania	-30.7
Maryland	-33.5
New Mexico	-34.6
Connecticut	-36.4
Maine (CR)	**-36.5**
Massachusetts	-38.5
New Jersey	-40.9
New York	-43.7
Rhode Island	-46.6

Combined Reporting and State Economic Development: Additional Evidence

There is no denying the fact that some large multistate corporations oppose combined reporting. Combined reporting is likely to result in increased corporate income tax payments for corporations that have put aggressive tax shelters in place. Its enactment also sharply limits the ability of large corporations to avoid a state's income tax going forward.

The question, however, is whether the dislike that some multistate corporations harbor toward combined reporting will actually result in harm to the economy of a state that adopts it. Would its adoption by New Mexico cause existing corporations to leave the state or reject it as a location for future investments? Would corporations not presently doing business in New Mexico be dissuaded from doing so by combined reporting?

The data on the facility location decisions of major New Mexico employers discussed above provide significant evidence that the answer to both questions is "no." This conclusion is supported by the job-creation track record of the combined reporting states and by academic studies as well.

Combined reporting states are well-represented among the most economically-successful states in the country. Between 1990 and 2007 (the period spanning the last two U.S. business cycles, measured peak to peak), only eight states that levy corporate income taxes managed to achieve net positive growth in manufacturing employment. Seven of those eight states — Arizona, Idaho, Kansas, Montana, Nebraska, North Dakota, and Utah — had combined reporting in effect throughout the 1990-2007 period.[4] (See Table 1 to the right.) The apparent absence of a negative effect on manufacturing is particularly

telling, because manufacturers often are more able than service businesses to move away from their customers in response to what they view as adverse tax policies.

It may seem illogical to acknowledge that some multistate corporations oppose combined reporting yet argue it has no significant impact on where they choose to locate. The apparent contradiction can be easily reconciled, however. All state and local taxes paid by corporations represent less than 2 ½ percent of their total expenses on average, and the state corporate income tax represents on average less than 10 percent of that amount — or less than one-quarter of 1 percent of total costs.[5] A state's decision to adopt combined reporting increases that small corporate tax load only slightly.[6] The potential influence on corporate location decisions of state corporate tax policies is simply overwhelmed in most cases by interstate differences in labor, energy, and transportation costs, which make up a much greater share of corporate costs than state corporate income taxes do and often vary more among the states than effective rates of corporate taxation. It comes as no surprise, then, that a study by economists Robert Tannenwald and George Plesko, which measured interstate differences in *overall* state and local tax costs for corporations in a particularly rigorous way, found that there was not a statistically significant (inverse) correlation between those costs and state success in attracting business investment.[7] In other words, higher state and local business taxes did not impede business investment.

Helping Small Businesses

Opponents of combined reporting also ignore potential *benefits* of this policy. Small (often family-owned) corporations doing most or all of their business in the state in which they are located generally do not have the resources to set up "Delaware Holding Companies," "captive REITs," and other tax shelters that exploit the absence of combined reporting in the state.[8] But their large, multistate corporate competitors do. By nullifying the corporate tax savings from aggressive tax-avoidance, combined reporting could benefit New Mexico's economy by preventing large out-of-state corporations from under-pricing the state's small businesses or attracting investment capital at a lower cost — thereby letting economic efficiency and not tax planning determine which businesses succeed in the marketplace. Perhaps this phenomenon explains in part why a recent study financed by the federal Small Business Administration found that: "States with more aggressive corporate income taxes, specifically including combined reporting . . . tend to have higher entrepreneurship rates."[9]

Maintaining Services Businesses Need

Finally, the enactment of combined reporting could benefit New Mexico's economy by preserving the long-term viability of the corporate income tax. This revenue source makes an important contribution to the ability of the state to finance education, transportation infrastructure, public safety, health care, and other vital services. Businesses need these services to provide a productive, well-trained workforce, to protect their facilities, and to ensure that they can obtain their supplies and transport their products to their customers expeditiously. Numerous economic studies confirm that the quality of these services in particular locations has a significant impact on where businesses choose to invest.[10] Failing to mandate combined reporting could harm the state's economy by allowing the erosion of the state's corporate tax base to continue, squeezing the ability of the state to furnish services that the private sector needs.

Conclusion

Combined reporting is a key tax policy choice needed to ensure that multistate corporations pay their fair share of New Mexico income taxes, just as small New Mexico businesses must do. Other approaches to nullifying income-shifting, such as asserting taxing jurisdiction over the out-of-state corporation receiving the income or disallowing deductions for royalties paid to out-of-state companies (one method of income-shifting), are controversial and also remain vulnerable to legal challenge because they have never been upheld by the U.S. Supreme Court. In contrast, the legality of combined reporting has twice been upheld by the Court, which found that it is a reasonable and fair strategy for taxing multistate corporations.

This report has presented compelling, New Mexico-specific evidence refuting the key objection to mandatory combined reporting — that its enactment will harm the state's economic prospects. However much they may object rhetorically to combined reporting, the vast majority of the state's major employers have willingly submitted and adapted to combined reporting-based income taxes in other states, often in *numerous* other states. New Mexico policymakers can confidently join those in a growing number of states that are enacting this critical corporate income tax reform without worry about negative impacts on the state economy.

Appendix: Data Sources

The 78 businesses whose facility locations were investigated for this report were culled from a list of *all* private sector employers with 250 or more employees in New Mexico generated by the New Mexico Department of Workforce Solutions' "LASER" (Labor Analysis, Statistics, and Economic Research) website.[11] The site initially generated 235 establishments meeting both of these criteria. However, upon further investigation, it became apparent that many of these were governmental or non-profit entities not subject to the state corporate income tax, and these were deleted. Enterprises identified as single-location establishments that were not subsidiaries of other corporations were also deleted from the study. (Single-location status was verified where possible through other sources, such as the companies' own websites.) While such businesses might be subject to corporate income taxes in other states because of the temporary presence of employees in those states, it seems very unlikely that they would be structured as multi-corporate groups for which combined reporting is relevant. Finally, all hotels and resorts and all Native American casinos were also deleted from the list.[12]

The two principal sources of information used to identify the states in which the 78 companies studied have facilities were the annual "10-K" reports filed by publicly traded corporations with the Securities and Exchange Commission and the companies' own websites. Every Form 10-K has a section titled "Properties" in which the corporation describes its major facilities. Although this section sometimes contains a generic description, in the majority of cases specific states are named.

Form 10-K information was supplemented by an examination of company websites. Many companies have a section of their websites listing their locations. For those companies that did not have such a page, it was sometimes possible to use the web pages aimed at assisting prospective employees in finding job openings. Companies often list *all* of their locations on the job vacancy sections of their websites; where they did not, states were included in Figure 1 only if there was a job listing for that state. (Job listings for sales jobs were disregarded, however, because the presence of a corporation's sales personnel in a state does not automatically establish corporate income tax liability for the company as a result of federal Public Law 86-272.)

The data presented in this report on the number of states in which New Mexico companies and their corporate parents maintain facilities should be viewed as the minimum number of combined reporting states in which they are taxable. States were counted only if it was possible to gather written evidence authored by the company itself that it had a facility in a specific combined reporting state. It is quite possible that the information obtained was incomplete and that the company is subject to corporate income tax in other combined reporting states. For example, a number of the companies in the report are oil pipeline construction companies; presumably they engage in this activity in numerous states and accordingly are subject to corporate income tax in numerous states. Several of them, however, only have permanent offices in one or two states, and these are the only states in which they are listed as taxable in this report.

Finally, it is possible that some of the companies listed in this report are not subject to the New Mexico corporate income tax— and would not therefore be affected by the state's adoption of mandatory combined reporting — because they are structured as Limited Liability Companies or have elected to be treated as tax-exempt Subchapter S corporations.

Notes

[1] See: Michael Mazerov, "State Corporate Tax Shelters and the Need for 'Combined Reporting'," Center on Budget and Policy Priorities, October 26, 2007, www.cbpp.org/10-26-07sfp.pdf.

[2] New Mexico Blue Ribbon Tax Reform Commission, table of recommendations, available at legis.state.nm.us/LCS/bluetaxdocs/BRTRCTableofRecommendations.pdf.

[3] Dick Minzner, former Secretary of the New Mexico Department of Taxation and Revenue and currently a corporate lobbyist, has emerged as the most visible and vocal combined reporting opponent. His writings include: "Combined Reporting: Questions and Answers," undated, and " 'Combined Reporting' Unfair," *Albuquerque Journal*, October 18, 2009. For a response to Minzner's arguments, see: Michael Mazerov, "Corporate Lobbyist's Case Against Combined Reporting in New Mexico: A Rebuttal," Center on Budget and Policy Priorities, November 30, 2009, www.cbpp.org/files/12-1-09sfp.pdf.

[4] Table 1 also indicates that the ninth and tenth best-performing states in manufacturing job growth were both combined reporting states. Oregon had a small net gain of manufacturing jobs in the 1990-2007 period that rounded down to zero. Minnesota had a small net loss of manufacturing jobs. Table 1 also shows that there were 11 combined reporting states that had better manufacturing job performance than the median state, Alabama, and only 5 combined reporting states that had steeper manufacturing job declines than Alabama.

[5] According to data published by the Internal Revenue Service, corporations deducted $473 billion in federal, state, and local taxes on their 2005 federal tax returns. This amount represented 2.0 percent of total expense deductions of $23.6 trillion. (The data are available at www.irs.gov/pub/irs-soi/05sb1ai.xls.) Since corporations have a strong financial incentive to deduct from their otherwise taxable profit every state and local tax payment for which they are liable, IRS statistics arguably are the most accurate source of information concerning state and local taxes incurred by corporations.

The Council on State Taxation (COST), an organization representing major multistate corporations on state tax matters, has taken issue with using IRS data to evaluate the relative importance of state and local tax costs in influencing corporate location decisions. (See: Joseph R. Crosby, "Just How 'Big' Are State and Local Business Taxes?" *State Tax Notes*, June 20, 2005, pp. 933-935.) Crosby correctly notes that the line-item for taxes deducted on federal returns omits a major category of state and local taxes paid by businesses — sales taxes paid on equipment and supply purchases. (Such taxes are hidden in other expense line-items in the IRS data.) However, as noted above, the line-item also includes a number of *federal* taxes paid by corporations that are deductible on federal returns — such as the federal telecommunications excise tax and unemployment compensation taxes for some corporate employees. If one were to add a reasonable estimate of the omitted state and local sales taxes and subtract a reasonable estimate of the inappropriately-included federal taxes, the resulting estimate for total state and local taxes incurred by corporations might not differ significantly from the $473 billion IRS figure for total deducted taxes.

In fact, COST has commissioned its own estimate of the total amount of state and local taxes paid by businesses. The figure for state fiscal year 2006 is $553.7 billion. (See: Robert Cline, Tom Neubig, and Andrew Phillips (Ernst & Young LLP), "Total State and Local Business Taxes, 50-State Estimates for Fiscal Year 2006," February 2007; available at www.statetax.org/WorkArea/DownloadAsset.aspx?id=67460.) This figure represents the estimated taxes paid by all businesses, not just corporations. But even if one assumed that all of these costs were incurred by corporations and substituted this figure for the IRS data for taxes deducted, it still results in an estimate that state and local taxes represent 2.3 percent of total corporate expenses (of $23.6 trillion) — not significantly different from the 2.0 percent figure arrived at using only the IRS data.

More importantly, COST also takes issue with the use of the $23.6 trillion IRS figure for total corporate expenses used in the denominator. COST argues that the relevant analysis is an examination of the share of total final economic output produced by private businesses that is absorbed by state and local taxes paid by such businesses. COST asserts that using the $23.6 trillion of corporate expenses is inappropriate because that figure includes multiple sales of the same item from (for example) a manufacturer to a wholesaler and then from the wholesaler to a retailer. In contrast, using total U.S. gross state product produced in the private sector (otherwise known as private sector "value-added") measures the value only of final production.

COST's preferred denominator of gross state product produced by private businesses might be appropriate for evaluating the total "burden" of state and local business taxes on final production in the economy. It is inferior, however, in evaluating the issue under discussion here — the role played by state and local corporate tax costs in influencing corporate location decisions as compared to the role played by other corporate expenses for labor, energy, and transportation. For each actor in the supply chain described above (manufacturer, wholesaler, retailer), the influence of state and local tax expenses on its location decisions is determined in relation to the other expenses incurred in its business that also vary among locations. How many times its inputs may have been resold prior to its purchase of them and how many times its outputs may be resold prior to reaching their final purchasers is irrelevant in influencing its location decisions. What is true for the individual economic actors is true for the supply chain as a whole. Thus, the relative importance of state and local taxes in influencing corporate location decisions in the overall economy is best illustrated by looking at those expenses as a share of total corporate expenses, not the total value of final corporate production or value-added.

In sum, it is entirely reasonable to argue that state and local taxes have a relatively minor impact on corporate location decisions because they constitute only 2.3 percent or less of total corporate expenses and their potential influence is overwhelmed by interstate differences in labor, energy, transportation, and other costs of production, which account for almost 98 percent of total corporate production expenses.

[6] The New Mexico Taxation and Revenue Department has estimated that the enactment of combined reporting would, at most, increase corporate income tax receipts by 20 percent *prior* to the application of revenue-reducing corporate tax credits. See: New Mexico Legislative Education Study Committee Bill Analysis of Senate Bill 389, March 16, 2009.

[7] George A. Plesko and Robert Tannenwald, "Measuring the Incentive Effects of State Tax Policies Toward Capital Investment," Federal Reserve Bank of Boston Working Paper 01-4, December 3, 2001.

[8] For a detailed description of some of the tax-avoidance strategies to which non-combined reporting states are most vulnerable, see the source cited in Note 1.

[9] Donald Bruce and John Deskins, "State Tax Policy and Entrepreneurial Activity," November 2006. Available at www.sba.gov/advo/research/rs284tot.pdf.

[10] For a recent summary of these studies in the context of Massachusetts' debate on combined reporting, see: Robert G. Lynch, William Schweke, Nicholas W. Jenny, and Noah Berger, "Building a Strong Economy: The Evidence on Combined Reporting, Public Investments, and Economic Growth," 2007. Published by the Economic Policy Institute and the Massachusetts Budget and Policy Center, June 2007. Available at www.massbudget.org/BuildingStrongEconomyJune07.pdf.

[11] See: laser.state.nm.us.

[12] Native American-owned businesses doing business exclusively on their own reservations are not subject to state corporate income taxes. Many of the hotels not included in the analysis are owned by national chains that likely own hotels in the vast majority of combined reporting states. However, it was not possible to determine in which states the chains actually owned hotels (which would subject the chains to corporate income taxes) and in which states the chains merely franchised hotels (which might not obligate the chains to pay corporate income taxes). In any case, the aim of this study is to demonstrate that the corporations under examination are unlikely to shun New Mexico as a place in which to do business because they are subject to combined reporting in other states. Hotels obviously are among the least likely businesses to flee New Mexico because they cannot provide their services to New Mexico customers without being physically present within the state.