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From: Jeff Friedman [SMTP:JFriedman@statetax.org]
Sent: Tuesday, March 10, 1998 1:55 PM
To: 'pmines@mtc.gov'
Cc: 'Merle Buff'; 'Oscar Garza (CORP)'; 'Arthur Rosen'; 'Art Feuerstein'
Subject: Sales and Use Tax Nexus PPWG

Paull - Below is our view on contacts by an out-of-state business that do not create nexus. Please feel free to contact me if you have any questions or comments. Thank you. - Jeff Friedman 202/484-5221

Temporary or occasional contacts, irrespective of whether they exceed a de minimis level, will not result in a finding of nexus for an out-of-state business as long as such contacts do not directly establish or maintain an in-state market. Following are examples of in-state contacts that do not create nexus for an out-of-state business:

- (1) meeting with business advisors, including but not limited to, accountants, attorneys, consultants;
- (2) meeting with state or local government representatives;
- (3) conducting recruiting/hiring events;
- (4) the presence or storage of material for the use in creating promotional or other informational material, including, but not limited to paper, diskettes, and CD Roms;
- (5) attending, participating, taking orders at trade shows;
- (6) renting or licensing of customer lists or other intangible to/from in-state entities;
- (7) shipping raw material or unfinished product to an in-state party for manufacturing, processing or temporary storage prior to shipment to a customer or to a manufacturing facility;
- (8) attending meetings (e.g., board meetings, seminars, conferences, retreats);
- (9) presence of a web site on an in-state server;
- (10) meeting with potential or actual suppliers of inventory, other goods, or services; and
- (11) in-state testing of prototypes.

In-state advertising through media channels does not constitute physical presence and thus does not create nexus. Any in-state meetings with advertising/media advisors, suppliers, professionals, etc. are covered by the section on temporary or occasional contacts. For these purposes, media channels shall include communications via direct mail, magazines, newspapers, billboards, telephone, radio, TV, cable and Internet. "Exploit the market" means establishing or maintaining an in-state market and includes those activities that involve direct contact with a customer or potential customer in the capacity as a customer or potential customer.