

Memorandum

To: Christy Vandevender, Nexus Committee Chair

From: Richard Cram, Director, National Nexus Program

Re: Results of Survey of on Revision to Paragraph 5.1.4 of Agreement for Sales/Use Tax Economic Nexus Taxpayers

April 21, 2020

Provided below is the text of the survey emailed on 2/27/2020 to participating states in the National Nexus Program, along with responses received:

To Nexus Committee:

At the Committee's last meeting in San Antonio, TX on November 5, 2019, the Committee voted to add the following language to the end of Paragraph 5.1.4 of the voluntary disclosure agreement form (attached) used when the taxpayer seeks sales/use tax voluntary disclosure and claims only economic nexus in the state: "If the total amount due under such [back tax] returns or spreadsheets is less than \$500, [Signatory State] or the Commission may void this Agreement." The purpose of this language is to give either the state or MTC staff authority to void the voluntary disclosure agreement when the taxpayer signs the agreement and provides back tax returns or spreadsheets that show a back tax liability of less than \$500 for the state's lookback period. This language aligns with the longstanding policy that applications for voluntary disclosure are not processed if the application indicates an estimated back liability of less than \$500 for the prior 4 tax years. The above language also addresses the problem occurring with some of the sales/use tax economic nexus applications, which contain back tax liability estimates of \$500 or more, but when the taxpayer provides the back tax returns or spreadsheets, they reflect much lower back tax liability amounts than \$500.

This survey is intended to provide guidance to MTC staff when the back tax returns or spreadsheets for a sales/use tax economic nexus voluntary disclosure agreement reflect a back tax liability of less than \$500 for the lookback period, and MTC staff will need to exercise discretion in either voiding the agreement or seeking the state's determination on whether to void the agreement, depending on extent that the back tax liability amount is below \$500. The results of the survey will be presented to the Committee Chair, Christy Vandevender, at the Committee meeting on April 21, 2020 in Alexandria, VA, with the goal of the Committee reaching a "consensus" on the amount of back tax liability, equal to or below which MTC staff would have authority to void the agreement without seeking input from the state.

Please indicate for your state the lookback period back tax liability amount shown on returns or spreadsheets below which MTC staff may void the sales/use tax economic

nexus voluntary disclosure agreement without seeking the state's input, by entering an "X" on one of the lines below and emailing your response (one response per Nexus Program state) to [rcram@mtc.gov](mailto:rcram@mtc.gov) by COB 3/20/2020:

MA MN ND NE SC WI\_\_\_\_\_ \$500

CO KY\_\_ \$400

GA KS\_\_\_\_\_ \$0

AL—NA--Alabama does not enter into VDAs for Simplified Sellers Use Tax