Nexus Committee Meeting
Open Session

Nashville
December 10, 2014
Nexus Committee Agenda
December 10, 2014 * 1:00 – 5:00 P.M. Central Time
Doubletree by Hilton Hotel * Nashville, Tennessee

-- Agriculture and Commerce --
1796

Open (Public) Session
State government personnel and members of the public may attend the public session either in person or by teleconference. To participate by teleconference, please dial (1) 800-264-8432 or (1) 719-457-0337 and enter participant code 149611. There is no security code. The closed session is available only to state-government personnel.

Members of the public wishing to address the committee are welcome to do so during Public Comments and when the committee turns its attention to the subject of the comment.

I. Welcome and Introductions

II. Review of Agenda

III. Review of Open-Session Minutes of July 29, 2014

IV. Public Comment

V. Nexus Director's Report

VI. Strategic Planning Process
   a. Progress report and discussion of Membership Project
   b. Progress report and discussion of Multistate Voluntary Disclosure Project
   c. Next steps

VII. New Business

VIII. Closed Session (state personnel only)

IX. Report from Closed Session

X. Adjourn

For more information about this meeting, please contact Thomas Shimkin, Director of the National Nexus Program, Multistate Tax Commission, 444 North Capitol Street, N.W., Suite 425, Washington, D.C. 20001 * (202) 695-8139 * Tshimkin@mtc.gov
Nexus Director’s Report
December 10, 2014

This report updates the Nexus Committee on activity of the National Nexus Program from July 1, 2014 until October 31, 2014. The Commission produces reports cumulatively over each fiscal year beginning on July 1 and updating over the fiscal year until the final report of the fiscal year that is presented at the committee’s July meeting the following calendar year.

Multistate Voluntary Disclosure

Service to Non-Members

The Commission stopped accepting new disclosures on behalf of non-member states on July 1, 2014. This was at the request of the Nexus Committee and follows more than fifteen years of providing services to non-member states. This has reduced the number of disclosures by about 15%, allowing staff to speed service to member states. The NNP has 2.25 FTEs doing the administrative processing of disclosures.

Low-Value and Zero-Value Voluntary Disclosures

The Commission has implemented the Nexus Committee’s recommendation to limit voluntary disclosures to those with at least $500 back liability based on the applicant’s good-faith estimate. The policy has reduced the workload of our voluntary-disclosure processing staff about 10% so that they can give more speedy service to members.

Statistics for partial FY 2015 (July 1, 2014 – October 31, 2014):

- Nexus states’ collections: $3,160,318 ($10,757,075 in all FY 2014)
- All states’ collections: $4,342,268 ($11,606,862 in all FY 2014)
- Nexus states’ executed contracts: 254 (2,222 in all FY 2014)
- All states’ executed contracts: 303 (2,704 in all FY 2014)
- Nexus states’ average contract value: $12,442 (FY 2014: $4,841)
- All states’ average contract value: $14,330 (FY 2014: $4,292)

The following provides context over a 10-year period:
The large spike in revenue recovered in FY 2009 and FY 2010 is due to a single taxpayer. Such large taxpayers come forward occasionally; their appearances cannot be predicted, other than that there will be more eventually.
Number of Executed Contracts by FY*- 10 yr

Average Contract Value by FY*- 10 yr

Nexus Director’s Report – Open Session
December 10, 2014
Strategic Planning

The Nexus Committee decided at its January 8, 2014 teleconference to pursue strategic planning in accordance with the Commission’s overall strategic planning, which has been under way for about three years. With the leadership of consultant Elizabeth Harchenko, the Nexus Committee has:

1. Approved its Environmental Scan (identifies SWOT – current strengths, weaknesses, opportunities, and threats (see appendix);
2. Approved its Mission, Vision, and Goals (MVG) (see appendix); and
3. Approved two projects to further the MVG.

The two projects are:

1. Increase membership by identifying barriers to membership; explore avenues to give member states a fuller appreciation of the benefits of membership; and
2. Identify improvements to the NNP’s multistate voluntary disclosure process.

Each project has a project team composed of volunteers from the Nexus Committee. The teams work between meetings of the Nexus Committee to advance the projects and to identify decisions for the full committee.

The committee anticipates completing the first project and beginning the second by January 2015.

Status of Membership Project

The Membership project team has identified contacts in the non-member states. The chair of the Nexus Committee has requested by letter that the contacts speak with a member of the project team about reasons for not joining, or for having withdrawn, and similar issues. Project team members will phone these contacts in December.

There are currently thirty-eight member-states (including the District of Columbia). This number remains unchanged from last fiscal year.

Technology

The NNP and IT staffs continue to work with a new software vendor to maintain and upgrade the NNP’s technology. Technological efficiencies are critical given the program’s small staff and the large number of disclosures (about 2,700 last fiscal year).
Voluntary Disclosure Reports

The vendor and Commission staff have verified the accuracy of voluntary-disclosure reports, documented the source of their data, and documented on the face of the reports precisely what data they provide.

The next project is to revamp the online application for voluntary disclosure. Designed in 2007, it needs to be re-written to work well with contemporary browsers. The work-around is to submit multiple PDF or Word files.

Staffing

The National Nexus Program employs slightly more than four FTEs (full-time employee equivalents). Staff includes voluntary-disclosure processors Diane Simon-Queen and Michelle Lewis; associate director Ben Abalos; and director Thomas Shimkin. The NNP also hires a temporary worker for up to eighty hours thrice annually to do filing and data entry.

Diane and Michelle work almost exclusively on the administrative processing of disclosures. Ben processes a small number of disclosures, answers taxpayer questions about voluntary disclosure and nexus, teaches Nexus School, makes outreach presentations, staffs strategic planning, works with the Commission’s IT dep’t and a software vendor to make needed repairs and updates to voluntary disclosure technology, and assists Thomas generally with management of the NNP. Thomas has management and supervisory responsibility for the National Nexus Program, which includes personnel, keeping up to date on nexus law to answer questions from taxpayers, advise states, and assist the Legal Division on selected projects; reviewing disclosure applications and contracts for legal and policy issues; fielding initial contacts with voluntary disclosants and troubleshooting their disclosures; maintaining relationships with taxpayers and states; staffing the Nexus Committee, ensuring uniformity of NNP policy and procedures; encouraging states to remain uniform in their voluntary disclosure policies; and making outreach presentations to taxpayer groups about the Commission and the NNP.

Meeting Schedule of Nexus Committee

The next scheduled meeting of the Nexus Committee will be on March 10, 2015 from 1:00 p.m. till 5:00 p.m. local time in Kansas City, Missouri.

Nexus School
Nexus staff taught a school in Little Rock on September 15-16, 2014 and another in Trenton on November 13-14, 2014. Staff is scheduled to teach in Prattville (near Montgomery), Alabama on February 2-3, 2015.

**Outreach Speaking Engagements**

Staff member Ben Abalos made a presentation at a Vertex conference in New Orleans on October 27, 2014. He gave an overview of the Multistate Tax Commission’s activities with a focus on the National Nexus Program.

**Request for Web links**

Please consider adding a link to the Commission’s voluntary disclosure page if your state does not yet have one. Links from states’ web pages, as well as referrals after a state audit, are a small but important source of applicants. The link should read along the line of,

“For voluntary disclosures involving more than one state you may contact the Multistate Tax Commission’s National Nexus Program for a streamlined, multistate disclosure process: www.mtc.gov or Nexus@mtc.gov or (202) 695-8140.”
APPENDICES

The following documents will not be discussed at the December 10, 2014 meeting of the Nexus Committee. They are included here as background information.
Strengthen the NNP has the following strengths that help it achieve its mission:
- Nexus training
- Round table among the states
- Voluntary disclosure program
- Resource to the states and taxpayers
- High quality information
- Synergy and information sharing among/between the states

Weaknesses – the NNP has the following weaknesses that hinder its achievement of its mission:
- Limited measures of success
- Limited staff resources both in the states and at MTC (80% of current time is spent on VDP apps and issues)
- Not enough state participation
- Limited awareness by taxpayers of the NNP
- Too slow to act on voluntary disclosure applications
- Lack of uniformity in state nexus standards
- Lack of information about state nexus standards
- Lack of focus for NNP
- Focus of NNP is too narrow
- Lack of clarity of role of NNP and Nexus Committee with respect to other MTC committees and programs
- Lack of readily available information on current nexus issues
- Not enough engagement by taxpayers

Opportunities – the NNP can take advantage of the following opportunities to help achieve its mission:
- Gain more taxpayer engagement
- Gain more state participation (this will affect taxpayer engagement)
- Learn more about nexus issues seen by the MTC and state audit staffs
- Maximize the use of technology to inform taxpayers
- Serve as a clearinghouse for nexus issues and information

Threats – the NNP must be able to address the following threats in order to achieve its mission:
- Funding restrictions in both the states and the MTC
- Legislative action affecting nexus standards
- Lack of settled law on nexus standards in the states
- States moving away from the MTC
- Tax amnesties – deter taxpayers from voluntary compliance
MISSION STATEMENT:
The National Nexus Program is a program of the Multistate Tax Commission. Its mission is to:
- Educate taxpayers and state personnel about nexus;
- Foster cooperation among states regarding development and enforcement of nexus law;
- Support compliance with nexus law by those engaged in interstate commerce;
- Support fair and consistent enforcement of nexus law by the states.

VISION:
By 2019, the National Nexus Program will be recognized as:
- A collaborative program in which states and industry, including organizations that represent taxpayers and practitioners, are actively engaged,
- A primary resource for information and education about nexus law, and
- A developer of innovative tools for nexus compliance.

STRATEGIC GOAL AREAS: Areas in which NNP must focus in order to achieve its vision
Vitality and reputation of the program – Our goal is to improve our image and reputation nationally. Increased vitality and reputation of the NNP will be reflected by:
- Increased state membership in the National Nexus Program
- The establishment of a comprehensive nexus resource repository, that will include relevant case law, state statutes and regulations governing nexus
- Investment in nexus services for states and taxpayers

Engagement of states and other stakeholders – Our goal is to increase the level of awareness of the NNP by states and stakeholders. Greater engagement of the states and other stakeholders in the NNP will be reflected by:
- Development of partnerships with taxpayer organizations, other state tax organizations, and practitioner organizations, and leveraging these resources when possible
- Increasing the synergy between the NNP and other MTC committees and work groups, including development of model recommendations concerning nexus
- Effective outreach to the states to have the best understanding of what they need in order to achieve their goals
- Outreach to local governments to identify opportunities for engagement and collaboration

Uniformity and Consistency of Practice – Our goal is to increase uniformity in nexus policy and administrative practices among the states. Achievement of the NNP’s uniformity goal will be reflected by:
- Enhanced education of taxpayers and state and local tax agencies about nexus policy and practice, including development of education modules that can be used by others
- Development of uniform model statutes, regulations or policy statements concerning nexus
- Increased information sharing and training for tax agencies
- A balance between the development of policy and standards and honor for the states’ sovereignty over their own tax policy

Compliance - Our goal is to develop timely and effective strategies to address new compliance challenges. Achievement of the NNP’s compliance goals will be reflected by:
- Development of tools to help taxpayers understand and comply with nexus law
- Effective use of technology tools to enhance compliance
- Improvement and enhancement of the voluntary disclosure program by using technology to make it more speedy and efficient
- Testing of new programs and compliance strategies with taxpayers
- Effective publicity and outreach to the taxpayer community and practitioners
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Nexus Committee Chairman Lennie Collins convened the meeting.

**Nexus Director's Report**

Nexus Director Thomas Shimkin reported that the Nexus Program collected $10,757,075 on behalf of member states in fiscal year 2014 through 2,222 executed contracts. Nexus executed 2,704 contracts when non-members are included. He said that the average contract value was $4,841.

**Approval of Minutes**

_The committee approved by voice vote the minutes of the March 13, 2014 meeting._ Chairman Collins invited comments from the public. There were none.

**Strategic Planning**

Elizabeth Harchenko, consultant on strategic planning to the Multistate Tax Commission, conducted the ongoing Nexus Committee strategic planning. At breakout sessions, participants explored project ideas and discussed a framework for prioritizing potential projects.
The committee revisited and dismissed the idea of allowing local governments to become members of the National Nexus Program, given the “state” focus of the Multistate Tax Commission.

Chris Sherlock (AL) opined that more states would join the Nexus Program if they understood the voluntary disclosure process and suggested that a process flowchart would be helpful. Thomas Shimkin advised that regardless of what the committee decides, Nexus staff internally will examine its voluntary disclosure process and reach out to non-Nexus member states.

The Committee considered the two project ideas that the Nexus Committee’s Strategic Planning Project Team recommended for referral to the MTC’s Strategic Planning Steering Committee. The two projects ideas are: (1) Increase Membership in National Nexus Program, and (2) Process Improvement for Voluntary Disclosure Program. Christy Vandevender (AL) favored prioritizing the membership project, reasoning that if membership is increased more staff could be available to help with voluntary disclosures. Conversely, J. A. Cline suggested that improving the multistate voluntary disclosure program would help increase membership. Randy Tilley (ID) stated that “barriers” to membership must be identified; otherwise, the committee won’t know whether the voluntary disclosure program is a barrier to state membership. Chris Sherlock (AL) elaborated on the idea of documenting the voluntary disclosure process in a flowchart to identify steps that may need to be changed, or to enlighten states that do not understand the process, or to ascertain whether there are barriers to joining the Nexus program that have nothing to do with the voluntary disclosure process.

J. A. Cline (LA) moved to submit both projects to the MTC’s Strategic Planning Steering Committee: (1) Increase Membership in National Nexus Program, and (2) Process Improvement for Voluntary Disclosure Program. The committee approved the motion by voice vote.

The following individuals volunteered to support the Membership project as project team members:
1) Christy Vandevender (AL)
2) Deanna Munds-Smith (AR)
3) Janice McGee (NM)
4) Gene Walborn (MT)

The following individuals volunteered to support the Voluntary Disclosure Process Improvement project as project team members:
1) Myles Vosberg (ND)
2) Mike Christensen (UT)
3) Christi Daniken (OR)
4) Ted Shiraishi (HI)

Chairman Collins invited a motion to adopt the July 29, 2014 version of the Nexus Committee Strategic Project Team’s document “National Nexus Program – Mission, Vision and Goals” as the latest version. Myles Vosberg (ND) moved for its acceptance. There were no comments. The motion passed by voice vote.
Chairman Lennie Collins will report the two identified projects and the Mission, Values and Goals document to the MTC's Strategic Planning Steering Committee scheduled to meet immediately following the Nexus Committee meeting.

New Business

Nexus Director Thomas Shimkin advised the Nexus Committee of a technical change requiring its approval to the Procedures of Multi-State Voluntary Disclosure to make it consistent with the template Voluntary Disclosure Agreement. Rick DeBano (WI) moved to change Section 5.2 of the Procedures of Multi-State Voluntary Disclosure to read (see strikeouts and underline):

5.2 A taxpayer is generally ineligible to participate in MVD with respect to a tax type and a state if it has at any time in the past filed a tax return or similar filing or made a payment with respect to that tax type and that state, or if it has been contacted by that state (or the Commission on behalf of that state) with respect to the taxpayer’s potential or actual obligation to file a return or make a payment with respect to that any tax type and that state. However, if a state contact does not specify a specific type of tax it is construed to be with respect to all types of tax. Each state may make its independent decision with respect to eligibility, taking into consideration extenuating circumstances, such as passage of time ....

The committee approved the motion by voice vote.

Closed Session

The committee entered closed session, returned to open session, and reported its closed session. There were no members of the public present to hear the report.

Adjournment

The Committee adjourned.
Nexus Committee

Strategic Planning Process

Membership Project
Project description: Increase Membership in National Nexus Program
V 1.3 10-14-2014

This project involves identifying the barriers to state membership in the National Nexus Program and proposing solutions to remove those barriers. The project will also include identifying the program characteristics that attract states to become members.

Problem: There are currently 14 states that are not members of the National Nexus Program. The program goals related to the vitality and reputation of the program and engagement of the states can be achieved by attracting as many of these states as possible to join the program.

Risks: When a significant number of states are not members of the National Nexus Program, member and non-member states alike lose the opportunity to work together to address nexus issues; and there is a higher risk of inconsistent administration of nexus standards. In addition, the program cannot provide voluntary disclosure services to taxpayers with respect to non-member states.

Issues for review:
- What barriers or constraints prevent states from becoming members of the National Nexus Program?
- What issues have caused states to drop out of the NNP?
- What benefits or services of the National Nexus Program provide value to the states?
- What benefits or services could be leveraged to make the National Nexus Program more attractive to states?
- What benefits (financial and other) do the states derive from the Voluntary Disclosure Program?
- What benefits will taxpayers see if more states joined the National Nexus Program?

Expected outcomes from the project:
- List of specific barriers to state membership in the National Nexus Program.
- List of specific benefits of membership in the National Nexus Program.
- Recommendations for steps that can be taken to overcome barriers.
- Recommendations for enhancing current benefits or services to make the program more attractive to states.
- Recommendations for marketing the National Nexus Program to non-member states.

Who should be involved in the project:
- Nexus Committee members
- MTC staff
PROJECT PLAN v 1.3
11-19-2014

PROJECT: Increase Membership in National Nexus Program

PROJECT TEAM: Christy Vandevender, AL
Gene Walborn, MT
Deanna Munds-Smith, AR
Janice McGee, NM
Thomas Shimkin, MTC

STAFF: Ben Abalos, MTC

FACILITATOR: Elizabeth Harchenko

PROJECT DESCRIPTION: The purpose of this project is to identify the barriers to state membership in the National Nexus Program and propose solutions to remove those barriers. The project will also identify the program characteristics that attract states to become members. See project description for more details.

TARGET COMPLETION DATE: January 31, 2015

HIGH-LEVEL PROJECT TIME LINE:

- October 2014 – First team meeting (teleconference). Review project description and project plan and make needed changes. Discuss research tools to use – email survey; telephone survey; in-depth interviews; which states to contact; questions to be asked. Assign tasks: in depth survey question development. Meeting held 10-14-14

- Late October 2014 – Teleconference. Decide on research tool(s) and process. Finalize research questions and states to contact. Assign tasks: Who to contact, time frame for contacts and reporting results. Meeting held 10-29-14

- Mid-November 2014 – Teleconference. Discuss and decide what to report to Nexus Committee during December meeting in Nashville. Discuss any questions about survey process. Meeting held 11-19-14


- December 16, 2014 - Teleconference to review research results and feedback from Nexus Committee. Develop initial list of barriers to membership and benefits of membership. Discuss possible recommendations for action and contents of final report. Discuss potential criteria for evaluation of project recommendations.

Nexus Committee

Strategic Planning Process

Streamline Multistate Voluntary Disclosure Program Project
Project description: Process Improvement for Multistate Voluntary Disclosure Program
V 1.3 11-6-2014

The purpose of this project is to identify opportunities to streamline the MTC Multistate Voluntary Disclosure Program to make it more efficient and effective. The project will evaluate the current MVD process and recommend improvements.

**Problem:** The Multistate Voluntary Disclosure Program is often labor-intensive for taxpayers, state personnel and the MTC National Nexus Program staff. There are opportunities to streamline the voluntary disclosure program to make it more efficient for both the states and taxpayers.

**Risks:** A labor-intensive process is less likely to be used by taxpayers and states. The MTC Multistate Voluntary Disclosure Program is currently the primary program offered by the National Nexus Program. If it isn’t being used by significant numbers of states or taxpayers, it cannot return the best value to both constituencies. Also, a complex system can result in a slower process.

**Issues for review:**
- How the current process works; flow chart of process
- How is communication between the taxpayer, MTC and affected states handled?
- Where are the opportunities to shorten time lines? (Will include baseline measures, where obtainable.)
- How do taxpayers and practitioners view the process, and what barriers do they experience?
- How might we increase the likely return on investment to the states?
- Do we have the right staff (both number and skill sets)?
- Are there opportunities to condense and standardize the information requested of taxpayers? Could templates be developed and used?
- How do the states view the process, especially those state employees who process voluntary disclosure applications?
- What can be learned from how states handle their own voluntary disclosure programs?
- How might the program be better publicized?
- What improvements would give the best return for the cost of implementing them?
- What components of the program take more effort than the value perceived for both states and taxpayers, and at what cost to the program?
- Should exclusion of states that don’t participate in National Nexus Program continue?
- What information is needed for multiple tax types (sales, income, withholding or special industry)?
- Is uniformity among the states desirable, and if so, how can it be achieved?

**Expected outcomes from the project:**
- List of opportunities for improvement to the MTC Voluntary Disclosure Program.
- Estimate or description of likely costs and benefits of any recommended changes.
- List of recommended measures for determining whether more taxpayers and states are using the MTC VDP.
- Recommended targets for time to complete a voluntary disclosure.

**Who should be involved in the project:**
- State staff who work with voluntary disclosure
- MTC staff who work with voluntary disclosure
- Taxpayers and practitioners
PROJECT PLAN v 1.3
11-6-2014

PROJECT: Streamline Multistate Voluntary Disclosure Program

PROJECT TEAM: Myles Vosberg, ND
Mike Christensen, UT
Christi Daniken, OR
Ted Sharaishi, HI
Anita DeGumbia, GA
Thomas Shimkin, MTC

STAFF: Ben Abalos, MTC

FACILITATOR: Elizabeth Harchenko

PROJECT DESCRIPTION: The purpose of this project is to identify opportunities to streamline the MTC Multistate Voluntary Disclosure Program to make it more efficient and effective. The project will involve review of the current process from the perspective of the states, taxpayers and the MTC National Nexus Program staff. See project description for more details.

TARGET COMPLETION DATE: June 30, 2015

HIGH-LEVEL PROJECT TIME LINE:
- November 2014 - First team meeting (teleconference). Review project description and project plan and make needed changes. Discuss process for soliciting and capturing ideas for improvement before project work formally begins. Discuss and decide whether to seek input from Nexus Committee during meeting in Nashville (December).
  Meeting held November 6, 2014
- February 2015 – Teleconference.
- March 10, 2015 – Nexus Committee meeting.
- April 2015 – Teleconference. Discuss options for change to MVD to streamline, make more efficient and effective. Discuss potential cost and benefit of potential changes.
- May 2015 – Teleconference. Decide on recommendations for change to MVD program. Discuss elements for report to Nexus Committee and Strategic Planning Steering Committee.
- June 2015 – Teleconference. Finalize report and recommendations to Nexus Committee and Strategic Planning Steering Committee.