



MULTISTATE TAX COMMISSION

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To: The Executive Committee
From: Christy Vandevender, Nexus Committee Chair
Re: Nexus Committee Activities 3d Quarter FY 2018
Date: April 26, 2018

Nexus Committee Report

This Third Quarter FY 2018 results (July 1, 2017, through March 31, 2018) are provided below.

- Nexus states' collections: \$ 8,858,266 (\$19,664,097 in all FY 2017)
- Nexus states' executed agreements: 2,781 (431 in all FY 2017)
- Nexus states' average contract value: \$ 3,185 (FY 2017: \$45,624)

The above amounts include checks received by the Commission or amounts paid by the taxpayer directly to the states and reported to the Commission. Interest on back tax paid and the value of a new taxpayer are not included. The number of executed agreements includes those from the online marketplace seller voluntary disclosure initiative, most of which involved waiver of back tax liability, as well as those from the ongoing Multistate Voluntary Disclosure Program, which do require payment of back taxes for the states' lookback periods. This accounts for the much higher number of executed agreements and the much lower average contract value.

The Nexus Committee met in person on July 31, 2017, in Louisville, Kentucky, on November 15, 2017 in New Orleans, Louisiana, and on April 24, 2018, in Bloomington, Minnesota. The Nexus Committee conducted an emergency meeting by telephone on October 11, 2017, and an open session meeting by telephone on January 4, 2018.

The Committee considered the following issues at the July 31, 2017 meeting:

The Committee approved proceeding forward with the online marketplace seller voluntary disclosure initiative for those states agreeing to participate, the application period to commence August 17 and end October 17, 2017, sellers to be required to register and commence collection of sales/use tax by December 1, 2017, and file income tax returns, if applicable commencing in tax year 2017. Participating states will have to option to: (1) offer total back tax liability waiver, or a limited look-back period; (2) include both sales/use tax and income/franchise tax, or only sales/use tax; and (3) impose a sales volume or back-tax liability threshold for applications. Twenty-five states, including the District of Columbia, are participating in the initiative.

The Committee approved amending the Nexus Program list of “frequently asked questions” to address treatment of not only NOLs in a voluntary disclosure agreement, but also other tax attributes, such as tax credits, carry-forwards, carry-backs, and capital gains, in lieu of amending the standard agreement.

Rhode Island joined the initiative and the National Nexus Program effective October 1, 2017.

The Committee considered the following at the October 11, 2017 emergency meeting conducted by telephone:

The Committee extended the deadline to receive applications for the online marketplace seller voluntary disclosure initiative from October 17 to November 1, 2017. The Committee also extended the deadline for applicants to register with a state (either return completed state registration forms to MTC staff or return to MTC staff written confirmation of online registration with the state, if permitted) to commence collection of sales/use tax to the later of December 1, 2017, or the date within 30 days after the seller receives notice from MTC staff that the state has signed the voluntary disclosure agreement.

The Committee considered the following at the November 15, 2017 meeting in New Orleans:

The Committee received a status report from Richard Cram, Nexus Program Director, on the online marketplace seller voluntary disclosure initiative. MTC staff have received applications from approximately 852 online marketplace sellers, as of the end of the extended November 1 application deadline.

The Committee considered the following at the January 4, 2018 meeting by teleconference:

In response to the heavy volume of online marketplace seller voluntary disclosure initiative applications and agreements being processed, Richard Cram requested that the Committee consider authorizing MTC staff to provide directions to those taxpayers receiving state-signed agreements to send taxpayer-signed agreements, registration forms, back tax returns and payments (if required) directly to the states, instead of returning those items to MTC staff, which would then forward those items to the states. The Committee approved a motion authorizing MTC staff to provide those directions to taxpayers, giving them the option to either return those items to MTC staff or send them directly to the state.

The Committee considered the following issues at the April 24, 2018 meeting:

The Committee received the report of Richard Cram, National Nexus Program Director, on the results of the online marketplace seller voluntary disclosure initiative: an estimated \$51.1 million in annual future potential revenue for the participating states, based on the back tax liability estimates provided in the applications of those online marketplace sellers that executed agreements and registered with the states. The Committee considered a request from Janette Lohman, on behalf of herself and other tax practitioners, to conduct a new remote seller voluntary disclosure initiative offering prospective compliance. The Committee also considered proposed changes to the standard agreement form and the Procedures for Multistate Voluntary Disclosure.