



Report on the National Nexus Program Online-Marketplace Seller Voluntary Disclosure Initiative

The Multistate Tax Commission's National Nexus Program (NNP) was created by and is composed of member states. One of the chief stated purposes of the NNP is to encourage and facilitate compliance with nexus law by those engaged in interstate commerce. To further this purpose, the NNP offers a multi-state voluntary disclosure program in which non-filers that have tax liabilities arising from potentially misconstrued nexus laws may, through a confidential and substantially uniform process, and a single point of contact, register and begin paying taxes, while limiting the back periods for which tax liability will be assessed and avoiding penalties.

At its July 31, 2017 meeting in Louisville, KY, the Nexus Committee, which oversees the NNP, approved a special initiative, through which most of the 25 participating states offered a complete waiver of back tax liability for both sales and use and income and franchise taxes, for online-marketplace sellers. (Four of the participating states required lookback periods.) The special initiative recognized that online-marketplace sellers may have nexus in states as a result of having their inventory stored in the states by a marketplace facilitator, or because of other nexus-creating activity by the facilitator on behalf of the seller. The initial application period was set to end October 17, 2017, with sellers to be registered to collect by December 1, 2017.

On October 11, the Nexus Committee held an emergency meeting by teleconference and agreed to extend the deadline for application to November 1, and provide sellers 30 days to register and begin reporting once they receive notice that a state has signed the voluntary disclosure agreement. At that meeting, the Committee also heard extensive comments from members of the public (including those who identified themselves as online-marketplace sellers) asking the participating states to actively assert a sales and use tax collection obligation against the marketplace facilitators. The Committee Chair noted that this was an enforcement issue for individual states to consider, and that the decision of the Nexus Committee to offer the special voluntary disclosure option for the online-marketplace sellers should not be viewed as a policy decision by the states that the marketplace facilitators, themselves, have no separate obligation to collect the tax.

By the end of the November 1 application period, voluntary disclosure applications from a total of approximately 850 online-marketplace sellers have been received.