



MULTISTATE TAX COMMISSION

Nexus Committee Meeting

Open Session

Albuquerque

July 29, 2014



Nexus Committee Agenda

July 29, 2014 * 1:00 – 4:00 P.M. Mountain Time
Hotel Albuquerque at Old Town * Albuquerque, New Mexico

-- *Crescit Eundo* --
1912

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 March 13, 2014
- IV. Public Comment
- V. Nexus Director's Report
 - a. Special item - Discuss contradictory provision between the Multistate Voluntary Disclosure Procedures and the Voluntary Disclosure Agreement template regarding prior contact with state
- VI. Strategic Planning Process
 - a. Review strategic planning process
 - b. Discuss Nexus Committee goals and potential projects
 - c. Report on project opportunities and seek decision on project recommendations
 - d. 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

July 29, 2014

This report updates the Nexus Committee on Nexus Program activity from July 1, 2013 until June 30, 2014. It also includes some historical information for context.

Multistate Voluntary Disclosure

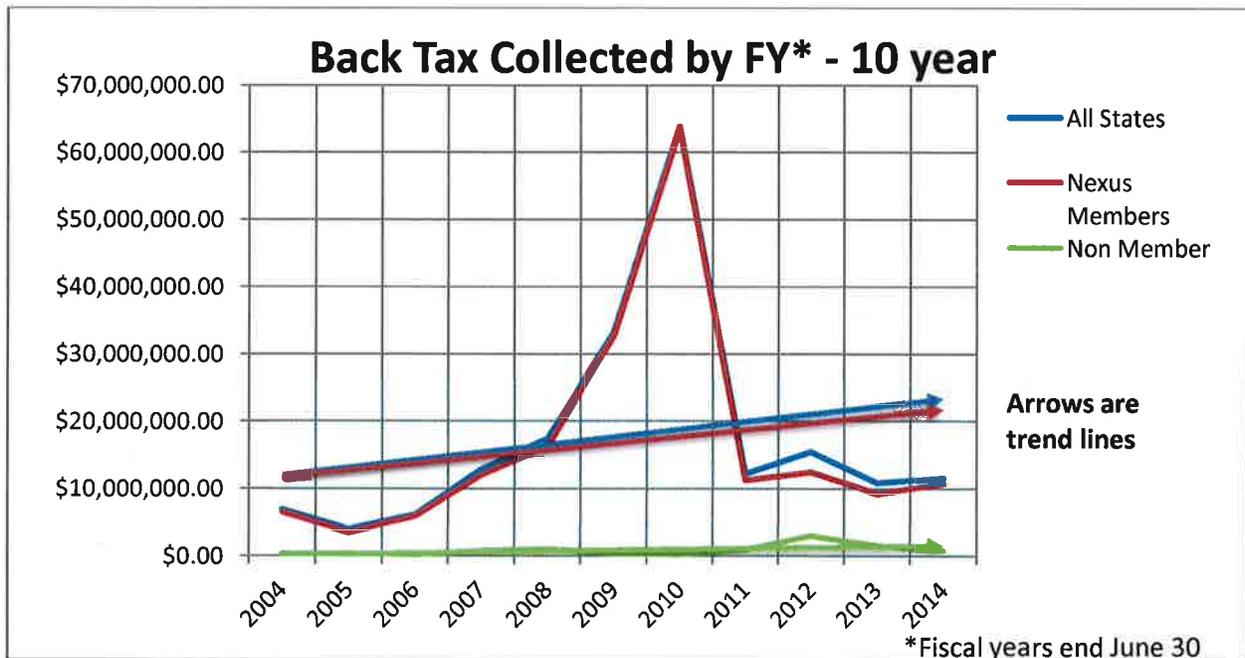
Here are the statistics for FY 2014 (July 1, 2013 – June 30, 2014):

- Nexus states' collections: \$ 10,757,075 (\$ 9,277,480 in all FY 2013)
- All states' collections: \$ 11,606,862 (\$10,842,380 in all FY 2013)

- Nexus states' executed contracts: 2,222 (479 in all FY 2013)
- All states' executed contracts: 2,704 (571 in all FY 2013)

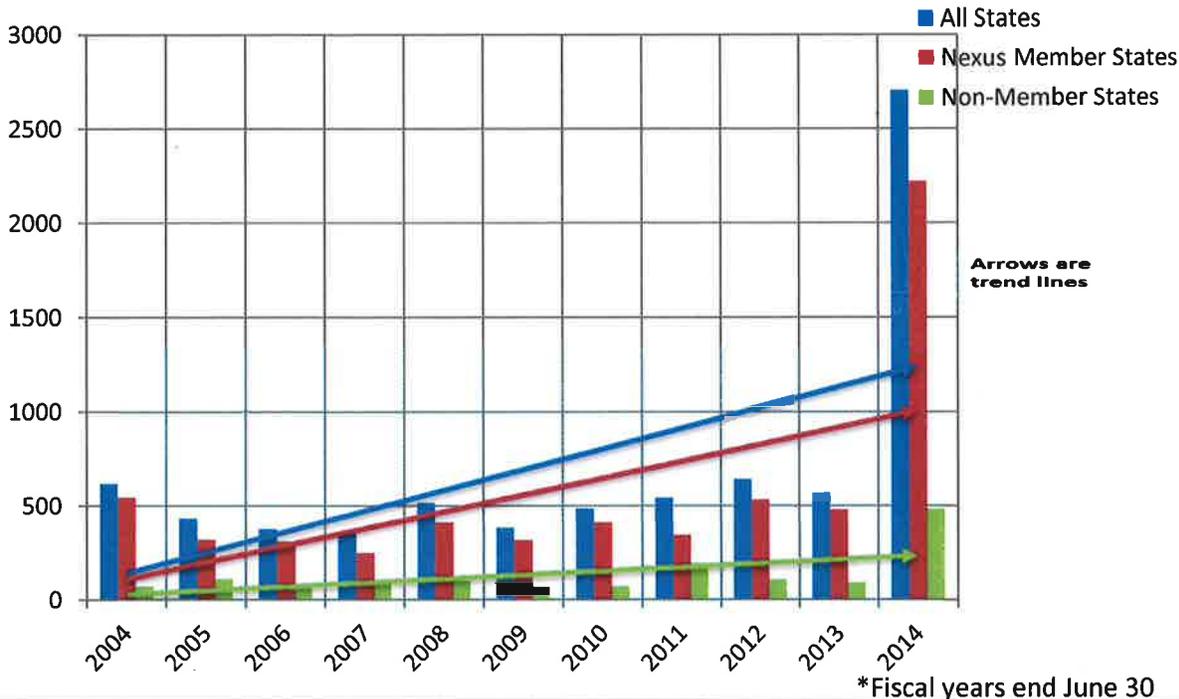
- Nexus states' average contract value: \$ 4,841 (FY 2013: \$19,368)
- All states' average contract value: \$ 4,292 (FY 2013: \$18,988)

The following provides context over a 10-year period:

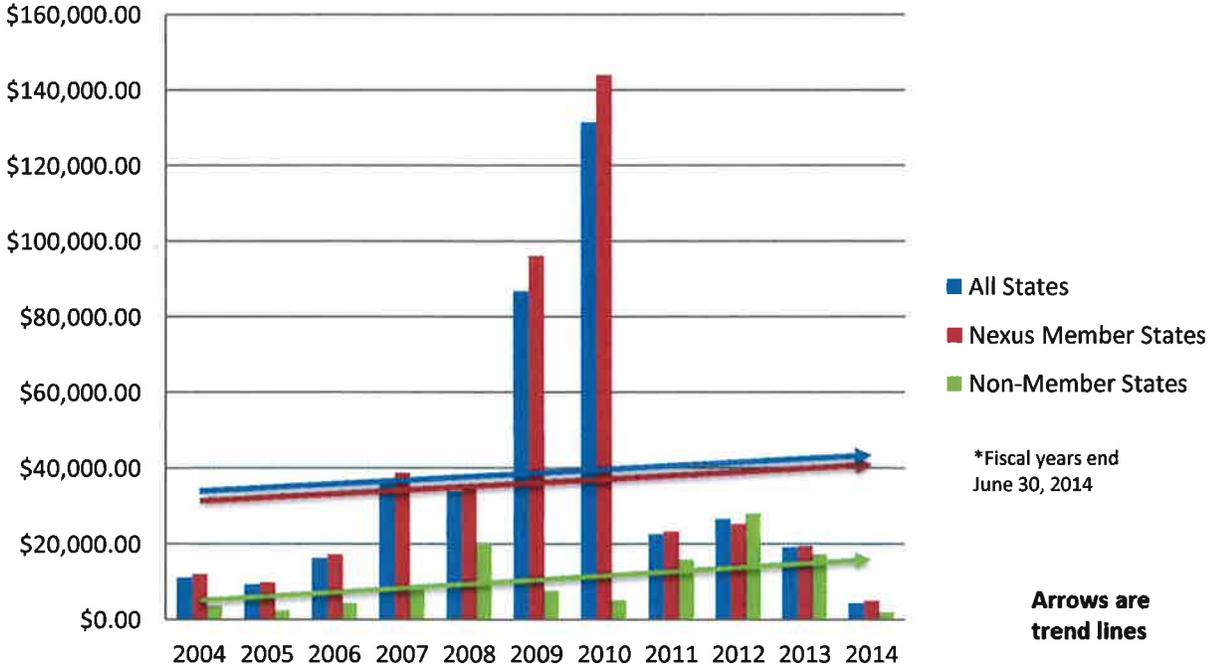


The large spike in revenue recovered in fy 2009 and fy 2010 is due to a single taxpayer. Such large taxpayers come forward occasionally; their appearance cannot be predicted, other than that there will be more eventually.

Executed Contracts by FY*- 10 yr



Average Contract Value by FY*- 10 yr



Multistate Voluntary Disclosure – Contact

The *Procedures of Multistate Voluntary Disclosure* and the template voluntary disclosure contract contradict each other regarding eligibility of a taxpayer for voluntary disclosure after it has been discovered. The committee requested to be consulted before staff amends either document. *Staff requests that the Nexus Committee decide between the approaches:*

- 1. Procedures: A taxpayer is ineligible for voluntary disclosure when it has been contacted by the state with respect to the type of tax at issue in the proposed disclosure; and*
- 2. Template contract: A taxpayer is ineligible for voluntary disclosure when it has been contacted by the state with respect to any type of tax.*

Strategic Planning

Strategic planning documents produced by a working group of the Nexus Committee for consideration by the Strategic Planning Steering Committee at its July 29, 2014 meeting (immediately following this meeting) are attached as appendices to this report. These documents are a report to the Steering Committee, a draft “Mission, Vision, and Goals” document, and descriptions of two proposed projects. The Nexus Committee launched the strategic planning process, facilitated by consultant Elizabeth Harchenko, on January 8, 2014. Work group members are Christy Vandevender (AL), Anita DeGumbia (GA), Randy Tilley (ID), Gene Walborn (MT), Shelley Robinson (UT) and Nexus chair Lennie Collins (NC). Thomas Shimkin (MTC) and Ben Abalos (MTC) are staffing the project.

Membership

There are currently thirty-eight member-states (including the District of Columbia). New Hampshire rejoined in September 2013 after five years absence.

The Nexus program stopped opening new multistate voluntary disclosures for non-member states on July 1, 2014 but will finish those begun before then.

Outreach

The NNP director made four public presentations in fy 2014.

1. Multistate Tax Conference of the Pennsylvania Institute of Certified Public Accountants (PICPA) (update on Commission activities);
2. State/local tax committee at the annual meeting of the American Institute of CPAs (AICPA) (update on Commission activities); and

3. Bloomberg BNA webinar (panel with COST regarding BNA survey of states);
and
4. Bloomberg BNA live videotaped panel (with COST and others regarding nexus and related legal and policy issues)

Staff continues to urge member states to put a link to the Commission's multistate voluntary disclosure program on their own voluntary disclosure web pages. Twenty-eight states currently make no direct referral. Minnesota posted a link in fy 2014 (thank you!).

Meeting Schedule of Nexus Committee and Nexus Committee Project Teams

The Nexus Committee generally meets in July, December, and March. The strategic planning work group will meet as needed after receiving direction from the Strategic Planning Steering Committee regarding whether to pursue the Nexus Committee's selected project. The committee intends to complete an approved project by December 2014.

Nexus School

Staff taught in Honolulu November 18-19 and in Chelsea, Massachusetts (Boston area) on January 14-15, 2014. Staff is scheduled to teach in:

1. Little Rock on September 15-16, 2014;
2. Trenton on November 13-14, 2014; and
3. Montgomery in February 2015

Web links

Please consider adding a link to the Commission's voluntary disclosure page if your state does not yet have one. Links from other states' web pages, as well as referrals after a state audit, are a small but important source of applicants. Please consider text 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, multi-state disclosure process: www.mtc.gov or Nexus@mtc.gov or (202) 695-8140"



Multistate Tax Commission (MTC)
Nexus Committee Minutes – OPEN SESSION
March 13, 2014
Denver, Colorado

**DRAFT – Motion for approval expected at
Nexus Committee Meeting scheduled for
7/29/2014**

State or Affiliation	Name
AL	Chris Sherlock
AR	Deanna Munds-Smith *
CO	Dennis P. Lima
GA	Anita DeGumbia
ID	Randy Tilley
ID	Steve Wynn
LA	R. Jay Frost
MT	Lee Baerlocher
MT	Gene Walborn
NC	Lennie Collins (Nexus Committee Chairman)
ND	Matt Peyerl
ND	Myles Vosberg
NE	Troy Hopkins *
NM	David Fergeson
OR	Christi Daniken *
OR	Jeff Henderson
OR	Gary Humphrey
SC	Rick Reames
TX	Hermi Nanez *
UT	Mike Christensen *
UT	Frank Hales
UT	Shelley Robinson *
WA	Karolyn Bishop
WA	Scott Garrison
WA	John Ryser
WI	Rick DeBano
WV	Andrew Glancy
MTC	Thomas Shimkin (Nexus Director)
MTC	Diane Simon-Queen *
MTC	Ben Abalos
Consultant	Elizabeth Harchenko

* Participated by telephone

Italicized text indicates a committee action or a matter to follow up.

Nexus Committee Chairman Lennie Collins convened the meeting. *The committee approved by voice vote the minutes of the December 10, 2013 and January 8, 2014 meetings.* Mr. Collins invited comments from the public. There were none.

Nexus Director's Report

Mr. Shimkin said that Nexus states' collections for the current, partial fiscal year (July 1, 2013 – February 28, 2014) were \$3,559,556. Nexus executed 182 contracts, with an average value of \$19,558, he reported.

In response to Gene Walborn's (MT) question whether the National Nexus Program accepted voluntary disclosure applications from pass-through entities, Mr. Shimkin advised that Nexus has received many such applications. It also occasionally receives disclosures of failure to withhold wages, he said.

Mr. Shimkin said that he suggests to applicants for disclosures less than \$500 in a state that they begin filing without benefit of voluntary disclosure and address any penalty directly with the state should it arise. Lee Baerlocher (MT) and Randy Tilley (ID) concurred.

Mr. Shimkin asked whether any state finds it unacceptable for taxpayers to include past liabilities on a first-year return. Matt Peyerl (ND) advised that it would not satisfy liability, but would stop penalties and interest. Chris Sherlock (AL) suggested that taxpayers may want to contact his office to settle penalties.

Steve Wynn (ID) asked whether the inclusion of past liabilities on a first-year return was an issue a taxpayer should bring to a states' taxpayer advocate. Chris Sherlock (AL) said that in Alabama, taxpayers must exhaust the appeals process before seeking help from the Department's taxpayer advocate. Lennie Collins (NC) shared that his state has just established an office of taxpayer advocate. Gene Walborn (MT) shared that his state's advocate does not have waiver authority; a taxpayer's payment satisfies liability for principal and interest, but the taxpayer must still file returns.

Strategic Planning

Mr. Shimkin introduced Ms. Elizabeth Harchenko, who will facilitate the Nexus Committee's strategic planning. Turning to that planning, the committee reviewed the Commission's Mission, Vision, Values, and Goals (MVVG); reviewed the Nexus Charter for consistency with the Commission's MVVG; brainstormed a statement of purpose and vision for the Nexus Program; did an environmental scan of Nexus organization and activities; and identified potential goals for the Nexus Program. *Ms. Harchenko said that a sub-group of the Nexus Committee will work from the ideas generated at the meeting to present a draft plan for the committee's consideration at its July meeting in New Mexico.* Gene Walborn (MT), Randy Tilley (ID), Shelley Robinson (UT), Anita DeGumbia (GA), and Christy Vandevender (AL) form the working group.

New Business

There was no new business.

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.

MTC NEXUS COMMITTEE
Strategic Planning Agenda

July 29, 2014

Albuquerque, New Mexico

- I. Review of Strategic Planning Process – Elizabeth Harchenko (10 min)
 - A. MTC Strategic Plan
 - B. Nexus Committee Strategic Planning Process
- II. Nexus Committee Goals – Elizabeth Harchenko (60 min)
 - A. Review Goal Areas and March Environmental Scan
 - B. Brainstorm session on potential projects and report out – one goal to each group
 - C. Brainstorm session on project evaluation criteria and report out – break out
- III. Project Opportunities for 2014-15 (20 min)
 - A. Report from Nexus Committee Strategic Planning work
 - B. Committee decision on project recommendations
- IV. Next Steps (20 min)
 - A. Team to organize brainstorm session results
 - B. Presentation to Steering Committee
 - C. Volunteers for project team(s)

DRAFT

REPORT TO NEXUS COMMITTEE

From

Strategic Planning Process Work Team

July 29, 2014

Background

In March 2014, the Nexus Committee chartered a work team to take the results of the Nexus Committee's initial strategic planning work and recommend a draft statement of Mission, Vision and Goals for the National Nexus Program. The work team developed the draft statement and presented it to the Nexus Committee during a teleconference in June 2014. The team took feedback on the draft statement. During that teleconference, the work team members volunteered to develop some project ideas for the goal related to Vitality and Reputation of the National Nexus Program.

Work team members: Christy Vandevender, AL; Anita DeGumbia, GA; Randy Tilley, ID; Gene Walborn, MT; Shelley Robinson, UT; and Tom Shimkin, MTC. The team was assisted by Ben Abalos, MTC; and Elizabeth Harchenko, facilitator. Nexus Committee Chair, Lennie Collins, also assisted the team in its deliberations.

Team Process

The team met by teleconference during June and July. Team members identified four projects that could be undertaken to enhance the vitality and reputation of the National Nexus Program. Those projects were:

- Improvements to the MTC Voluntary Disclosure program
- Educational outreach to taxpayers and practitioners
- Increasing state membership in the Nexus program
- Developing tools to solicit leads

The team developed evaluation criteria to help them decide which projects to recommend to the Nexus Committee for its consideration. Those criteria included:

- Likely state interest in the project;
- The feasibility of the project;
- The impact of the project on the vitality and reputation of the National Nexus Program; and
- The topical urgency or timeliness of the project.

The team decided to bring forward two projects – one related to the improvement of the Voluntary Disclosure Program and one related to increasing state membership in the National Nexus Program. The team also made some changes to the draft statement of Mission, Vision and Goals in response to the feedback from the Nexus Committee in June.

Summary of Recommendations

Mission, Vision and Goals: based on feedback from Nexus Committee members during the June teleconference, the team recommends that the Nexus Committee adopt the statement of Mission, Vision and Goals for the National Nexus Program attached to this report (Attachment 1).

Voluntary Disclosure Improvement Project: the team recommends that the Nexus Committee approve, and recommend to the MTC Strategic Planning Steering Committee for chartering, a project to identify opportunities to improve the Voluntary Disclosure Program. A project description is attached to this report (Attachment 2).

Membership Project: the team recommends that the Nexus Committee approve, and recommend to the MTC Strategic Planning Steering Committee for chartering, a project to identify the barriers to state membership in the National Nexus Program and propose solutions to remove those barriers. The project would also include identifying the program characteristics that attract states to become members. A project description is attached to this report (Attachment 3).

Next Steps

Upon approval of either or both of the recommended projects by the Nexus Committee and the Strategic Planning Steering Committee, a project team and time line would be developed for the project or projects selected.

Respectfully submitted,

Strategic Planning Project Work Team

Christy Vandevender, AL
Anita DeGumbia, GA
Randy Tilley, ID
Gene Walborn, MT
Shelley Robinson, UT
Tom Shimkin, MTC

Attachment 1

NATIONAL NEXUS PROGRAM – MISSION, VISION AND GOALS

July 29, 2014

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

3- Report to Nexus Committee from Strategic Planning Process Work Team (7-29-14)

Attachment 2

Project description: Process Improvement for Voluntary Disclosure Program

This project would involve identifying opportunities to streamline the MTC Voluntary Disclosure Program.

Problem: The 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 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.

Issues for review:

- How does the current process work?
- How is communication between the taxpayer, MTC and affected states handled?
- Where are the opportunities to shorten time lines?
- How do taxpayers and practitioners view the process?
- 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?

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.

Who should be involved in the project:

- State staff who work with voluntary disclosure
- MTC staff

Attachment 3

Project description: Increase Membership in National Nexus Program

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

Problem: There are currently 13 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 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 is the value that 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

