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Minutes
Nexus Committee Meeting (Open Session)
July 23, 2018
Westin Boston Waterfront, Boston, MA

List attendees:

Steven Alvarez	GA
Julie Anderson	OR
Walter Anger	AR
Dan Armer	NM*
Tom Atchley	AR
Tripp Baltz	Bloomberg BNA
Michelle Biermeier	WI
Shannon Bonardi	MD
Colleen Chipman	NJ
Edward Collins	HI
Kristin Collins	VA*
Lennie Collins	NC
Anita Conner	PA
Holly Coon	AL
Scott Brian Clark	Denton US LLP*
Richard Cram	MTC
John Demeter	VT
Ella Dillon	NJ
Richard Dobson	KY*
Latonia Dooley	KY
Richard Dotson	DC
Robert Dudley	NH
Michael Emfinger	AL
Cathy Felix	MTC
John Frasier	NH
Scott Fryer	AR
Mike Gamble	AL
Darrick Gartley	NH

Keith Getschel	MTC
Frank Hales	UT
Amy Hamilton	Tax Analysts*
Michael Hathaway	CO
Carla Haugen	AR
Troy Hopkins	NE*
Phil Horwitz	Moss Adams
Rusty Johnson	TX
Hal Jones	TN
Allysen Kerr	SD*
Samwel Khakame	CO*
Robert Kindred	DC
Stephen Kios	VA*
Mary Ellen Knack	TN
John Kutsukos	CT
Jayne Kulberg	WI
Don Kuriki	HI
Madelaina Lai	HI
Katie Lolley	OR
Ashley McGhee	NC
Deanna Munds-Smith	AR
Matt Nesto	Law 360
Marcia Ann Oakman	KY
Matt Peyerl	ND
Cory Rayner	NH
Karryl Romain	LA
Tom Shaner	ID
Janice Shannon	NM
Thomas Shimkin	MTC*
Larry Shinder	MTC
Jeff Silver	MTC
Eric Smith	OR
Brandon Spanos	AK
Scott Spilinek	NE*
Tiffany Southworth	UT
Jenny Starr	MN
Marshall Stranburg	MTC
Misgana Tesfaye	CO
Randy Tilley	ID

Sal Tomaselli	MO
John Tracy	MTC
Audrey Tyndall-Hoyle	NJ
Ginny Upchurch	NC*
John Valentine	UT
Christy Vandevender	AL*
Marjorie Welch	OK*
David Wiest	ND
Steve Wynn	ID
Diane Yetter	Sales Tax Institute*

*participation by telephone

Vice-Chair Randy Tilley, ID, brought the meeting to order at 8:30 am EDT, introductions of attendees were made, and public comment was invited. No public comment was made.

Frank Hales, UT, moved for approval of the minutes of the April 24, 2018 open session meeting of the Nexus Committee, and the motion passed unanimously.

Nexus Director's Report and Update on Recent Nexus Law Developments since April 24, 2018

Richard Cram, Director of the National Nexus Program, presented the Update on Recent Nexus Law Developments since April 24, 2018 and the FY 2018 Nexus Program Director's Report. The update focused on the recent *South Dakota v. Wayfair* decision and the status of state sales/use tax nexus laws following that decision. Back tax collections from agreements closed during FY 2018 were \$18, 601,151, slightly below the results for FY 2017 (\$19,664,097). However, the recently completed online marketplace seller voluntary disclosure initiative is expected to result in an estimated \$51,058,614 in annual potential future revenue for the participating states.

New Business—recommended changes to voluntary disclosure application

Richard Cram reviewed his memorandum recommending changes to the standard voluntary disclosure application, given that states will be moving toward minimum sales volume/number of transactions thresholds for nexus as a result of *South Dakota v. Wayfair*. Taxpayers applying for voluntary disclosure should provide information on when physical presence nexus-creating activities commenced, as well as information on sales volume and number of sales transactions in the state, and when such sales commenced. The proposed changes are intended to obtain that information.

Christy Vandevender, AL, moved that the suggested changes be adopted. The motion was approved unanimously by voice vote. A copy of the revisions to the application, as approved by the Committee, is attached.

Closed Session

The committee entered closed session to discuss matters protected from disclosure.

Open Session

The Committee returned to open session, had nothing to report, and adjourned.

State Name:

Application for Multistate Voluntary Disclosure Multistate Tax Commission National Nexus Program

DRAFT

Instructions

Please provide a separate Application for Multistate Voluntary Disclosure in PDF format for each state applied to. **Do not attempt to modify or reformat the Application form. If additional or supplemental information beyond the form needs to be provided, please attach it as a separate addendum (do not include the taxpayer's identity in the addendum).**

The information provided will be submitted to the appropriate states without alteration other than to remove contact information and any other identifying information. Do not include information regarding more than one state in one application. **Incomplete Applications cannot be accepted or processed.**

The applicant's factual statements will become part of the voluntary disclosure agreement, and the states will rely on this information to evaluate the application for voluntary disclosure. Material omissions or misrepresentations in the application will invalidate the agreement.

Past due tax liability and returns will be addressed within the voluntary disclosure process. Prior contact with a state (such as registering, filing a return, making a tax payment, receiving a notice of audit or delinquency) could disqualify the applicant from voluntary disclosure relief for that tax type. Anonymous inquiries to a department of revenue regarding filing requirements, how to compute tax, and similar general information issues will not be considered sufficient prior contact with a state to deny eligibility.

Email applications in PDF format to Nexus@mtc.gov. The telephone number for questions about this form is (202) 695-8140. Email inquiries can also be sent to nexus@mtc.gov.

State Name:

**Application for Multistate Voluntary Disclosure
Multistate Tax Commission
National Nexus Program**

Date:

By submitting this Application, applicant acknowledges the obligation to timely amend this Application to reflect any material changes, errors or omissions in the factual representations contained herein occurring before execution of the voluntary disclosure agreement by all parties.

The Multistate Tax Commission protects the identity of all applicants for voluntary disclosure. It will not disclose that identity except: (1) at the request of the applicant; (2) to a state with which the taxpayer has a signed voluntary disclosure agreement; or (3) pursuant to a proper court order. Provide below the name of a contact person, telephone number and email address. The contact person may be an employee of the taxpayer or an outside tax representative.

GENERAL:

1. PRIMARY CONTACT (tax representative or other):

Name:

Address:

Telephone:

E-mail Address:

SECONDARY CONTACT (if any):

Name:

Address:

Telephone:

E-mail Address:

Last digit# of taxpayer FEIN: (The last digit# is used to distinguish the applicant from other applicants while protecting anonymity. Providing this information is recommended.)

State Name:

2. Indicate applicant's form of business entity:

C corp Sub S LLC LLP Sole Proprietorship

For pass-through entities, provide the number of shareholders, members, or partners

If the business entity form has changed during the four years immediately preceding the date of this Application, please state the form(s) of the predecessor entities and the time periods.

3. Has the applicant's Federal Employer Identification Number (FEIN) changed during the past four years?

Yes No

If yes, please provide the dates and circumstances causing the change.

4. What is the date of the end of applicant's tax year?

If it has changed within the past four years, please list all tax year-end dates and the applicable time periods.

5. Describe the applicant's business activities :

6. Please provide the reason(s) for submitting this Application (examples: prior reliance on erroneous professional advice, acquisition of a non-compliant entity, or a contact from another state regarding the applicant's non-filing status):

State Name:

- 7. Prior to submitting this Application, has the applicant contacted or been contacted by the state or the Multistate Tax Commission on behalf of the state regarding potential liability or filing status for the type of tax sought to be covered by this voluntary disclosure application?**

Yes No

If so, please describe (contact with the state prior to commencement of the voluntary disclosure may disqualify the applicant from voluntary disclosure.):

Is the applicant under IRS audit?

Yes No

- 8. Please provide any additional information:**

State Name:

STATE-SPECIFIC QUESTIONS:

A. Which type(s) of tax liability will the applicant disclose? The Multistate Tax Commission assists with disclosures

for: SUT Sales/UseTax

IFT Income/FranchiseTax (including Hawaii's GET and Washington's B&O).

B. If the applicant is not disclosing for both sales/use and income/franchise tax obligations, why is one tax type excluded? (Examples: application of Public Law 86-272, or making only sales exempt from sales/use tax)

C. What type of property does applicant own, lease, license or otherwise use in the state and indicate ownership status:

Owner Lessor Lessee Licensor Licensee

Please describe (include real property, personal property, and intangible property such as intellectual property, trademarks or patents) **the activity the property is used in, and the month/year when such activity commenced:**

D. Are any personnel (employees, independent contractors, marketplace facilitators, referrers, or other representatives) acting on behalf of the applicant in the state? Include all such contacts, even if transitory. Describe their activities, **month and year when such activities commenced**, amount of time spent in the state, and relationship to the applicant:

E. Please describe any other **business activities not previously described that the applicant conducted in the state that the applicant engaged in and the month and year when such activities commenced:**

State Name:

- F. Provide your good-faith estimate of the amount of tax liability for the prior four tax years, broken out by tax type. National Nexus Program staff will not process an application when the good-faith estimate for all tax-types for the look-back period is less than \$500 in that state.

Tax Type	Tax Year	Estimate
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Tax Type	Tax Year	Estimate
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- G. Is the applicant organized under the laws of this state?

Yes No

If the applicant is a natural person, is the applicant a resident of this state?

Yes No

- H. If this Application concerns sales/use tax, has the applicant ever collected but not remitted sales/use tax, registered, filed a return, paid interest or penalty, or paid any sales/use tax to this state (other than to a collecting vendor)? If yes, please describe:

