



444 North Capitol St., NW  
Suite 425  
Washington, DC 20001-1538  
Telephone: 202.650.0300

[www.mtc.gov](http://www.mtc.gov)

**Minutes**  
**Nexus Committee Meeting (Open Session)**  
**July 28, 2020**  
**Teleconference**

List attendees:

John Armstrong	CO
Tripp Baltz	Bloomberg Tax
Lee Baerlocher	MT
Pamela Beebe	AZ
Barbara Beelle	NH
Karolyn Bishop	WA
Krystal Bolton	LA
Keith Broussard	MT
Joan Cagle	TN
Colleen Chipman	NJ
Christie Comanita	SSTGB
Wendy Conlin	MN
Frederick Coolbroth, Jr.	NH
Holly Coon	MTC
Richard Cram	MTC
Lindsay Cutler	CO
Daniel D'Alessandro	ME
Joel DiPippa	AR
Lila Disque	MTC
Richard Dobson	KY
Latonia Dooley	KY
Christopher Dowsey	AZ
Angela Doyle	Jones Day
Melinda Dunmire	MD
Amber Egbert	CO
Michael Fatale	MA
Bruce Fort	MTC
Petra Garcia	AZ

Felicia Gillis	AZ
Stacey Greaud	LA
Layne Hadlock	ID
Michael Hale	KS
Frank Hales	UT
Brian Hamer	MTC
Amy Hamilton	Tax Analysts
Helen Hecht	MTC
Virgil Helton	Fast Enterprises LLC
Nathan Hoepfner	KS
Rusty Johnson	TX
Victoria Johnson	OR
Harold Jones	TN
Bryan Kelly	WA
Samwel Khakame	CO
Shuchi Khanna	GA
Robert Kindred	DC
Loretta King	MTC
Virginia Krueger	AZ
Jayne Kulberg	WI
Patrick Lahiff	NC
Todd Lard	Eversheds Sutherland
Katie Lolley	OR
Roxanee Maston	AZ
Greg Matson	MTC
Deanna Munds-Smith	AR
Marcia Oakman	KY
Stacie Odom	NE
Scott Pattison	MTC
Scott Peterson	Avalara
Matt Peyerl	ND
Debra Piaseczny	NH
Marietta Probst	Avalara
Nancy Prosser	MTC
Will Rice	FAST
Peter Roth	NH
Daniel Rouse	ND
Joseph Royston	OR
Christopher Russell	IN

Matthew Samuelson	CO
David Sands	FL
Jessica Sanders	SC
Jennifer Sargent	SC
Mark Schoenfeld	MT
Swati Shah	NJ
Tom Shaner	ID
Thomas Shimkin	MTC
Larry Shinder	MTC
Shirley Sicilian	KPMG
Jeff Silver	MTC
Diane Simon-Queen	MTC
Kathy Smith	SD
Beth Sosidka	AT&T
Tiffany Southworth	UT
Scott Spilinek	NE
Keith Staats	Illinois Chamber
Doreen Sudol	FLP Accounting and Tax
Matt Tidwell	AL
Christy Vandevender	AL
John Vecchiarelli	FAST
Charla Wagner	KS
Eric Wayne	EY
Paul Williams	Law360
Sabrina Worthington	MTC
Steve Yang	MTC

Christy Vandevender, Chair, AL, brought the meeting to order at 11:31 am EDT, introductions of attendees were made, and public comment was invited.

#### Public Comment

No public comment was offered.

#### Minutes

Frank Hales, UT, moved for approval of the minutes of the April 21, 2020 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 21, 2020

Richard Cram, Director of the National Nexus Program, reviewed for the Committee his written Update on Recent Nexus Law Developments since April 21, 2020 and the FY 2020 Nexus Program Director's Report. Back tax collections from agreements closed as of the end of the FY 2020 were \$22,551,287 with 544 executed agreements. This significantly exceeds the back tax collections for FY 2019.

Revision to state lookback period chart to reflect implementation of sales/use tax economic nexus

Richard Cram summarized his memorandum, including a revised lookback period chart as well as an additional chart showing sales/use tax economic nexus implementation dates for participating states (attached). Richard explained that for taxpayers coming forward for voluntary disclosure for sales/use tax that have only economic nexus with the state, the sales/use lookback period should not begin prior to the date that the state has implemented economic nexus. Otherwise, this could be contrary to the language in *Wayfair* discouraging retroactive enforcement of sales/use tax economic nexus. In order to alleviate taxpayer confusion concerning the lookback period, language is added to the lookback period chart (shown in red) clarifying that the sales/use tax lookback period shown in the chart would not apply when the taxpayer has only economic nexus and no physical presence in the state. Instead, the additional chart showing implementation dates for states' sales/use tax economic nexus laws will apply to establish the start of the lookback period.

Chair Christy Vandevender asked if there were any concerns or corrections concerning the revised lookback period chart and the additional chart showing sales/use tax economic nexus implementation dates for the states. No concerns or corrections were expressed. Christy stated that states should inform Richard by August 4, 2020 if they have any concerns or corrections to those charts. Otherwise, those will be posted on the MTC website in order to provide guidance to taxpayers.

Amendment to Standard Agreement to accommodate states requesting electronic filing of back tax returns and electronic payment

Richard Cram summarized his memorandum (attached) explaining that during the COVID 19 pandemic, tax agency staff as well as MTC staff are working remotely. Some states have been encouraging taxpayers to register, file back tax returns/spreadsheets and pay back taxes electronically, advising taxpayers to wait to submit electronic payment until the state invoices the taxpayer for the tax owed plus interest. Paragraph 5.1 of the Standard Agreement provides that unless the state or the

Commission grants the taxpayer an extension, the taxpayer has 60 days from receiving notice that the state has signed the Agreement to register, sign the Agreement, file back tax returns/spreadsheets and pay back taxes. The state will then invoice the taxpayer directly for the interest afterwards. It is proposed that in order to accommodate states encouraging taxpayers to pay back taxes electronically, when states provide written instructions that the taxpayer should wait to submit payment of back taxes electronically until the state invoices the taxpayer for the taxes and interest, this will be considered a “written extension” under Paragraph 5.1 of the Agreement. Language is added to Paragraph 5.1.4 of the Agreement providing that the taxpayer is required to notify MTC staff when the taxpayer submits such payment directly to the state and the date of such submission, so MTC staff can close out the file and receive the information on the amount of back taxes collected.

Chair Christy Vandevender asked if there were any questions or concerns regarding the proposed amendment to the Standard Agreement. None were expressed, so Christy advised that Standard Agreement would be considered amended as proposed.

#### New Business

No new business was brought before the Committee.

#### Closed Session

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

#### Open Session

Chair Christy Vandevender adjourned the open session, with nothing to report from the closed session.

## MEMORANDUM

To: Christy Vandevender, Chair, Nexus Committee

From: Richard Cram

Date: July 28, 2020

Re: Proposed Revisions to Lookback Period Chart

Currently, the Nexus Program webpage on the MTC website includes a chart that lists each participating state's lookback period for sales/use tax and income/franchise taxes. These lookback periods, at least for sales/use tax, are based on the assumption that the taxpayer had physical presence nexus in the state. In the 2018 *South Dakota v. Wayfair* decision, the U.S. Supreme Court overruled *Quill* and determined that the physical presence nexus standard was incorrect, ushering in sales/use tax economic nexus, which all sales tax states, except for Florida and Missouri, have now adopted. The *Wayfair* decision contains language strongly discouraging application of sales/use tax economic nexus retroactively, so states that have adopted economic nexus laws have been careful not to attempt to enforce them prior to the effective date of their economic nexus laws.

The Nexus Committee previously addressed the issue of how sales/use tax lookback periods should be determined when the taxpayer coming forward for voluntary disclosure has only sales/use tax economic nexus in the state and no physical presence. The Nexus Committee agreed that the lookback period for sales/use tax for a taxpayer with sales/use tax economic nexus only should not begin before the effective implementation date of the state's sales/use tax economic nexus law. The lookback period for a taxpayer coming forward for voluntary disclosure for sales/use tax that has only economic nexus with the state may receive a lookback period that is considerably shorter than the normal lookback period that would apply if the taxpayer had physical presence nexus in that state.

In order to eliminate confusion for taxpayers, it is suggested that language be added to the currently published lookback period chart to clarify that the participating states' sales/use tax lookback periods will differ from those shown on the chart when the taxpayer has only economic nexus with the state. Also, an additional chart should be published showing the sales/use tax economic nexus lookback periods for those states.

Attached is the current lookback period chart published on the MTC website, with suggested added language shown in red, indicating that the lookback periods shown for sales/use are based on the assumption that the taxpayer has physical presence nexus in the state. That language will also refer the viewer to another chart (attached) showing the sales/use tax lookback periods for states that have adopted sales/use tax economic nexus, and which would apply when the taxpayer has only economic nexus in the state.

## Lookback Periods for States Participating in National Nexus Program

The lookback period includes the prior complete tax filing periods for which a taxpayer applying for voluntary disclosure relief must generally file returns and pay the past-due tax liability plus interest in return for the state's waiver of tax liability for periods prior to the lookback period and penalties. The lookback period also includes the current incomplete tax filing period, the return for which must be timely filed and tax paid when due. The prior and current tax filing periods are determined based on the date that the application is received by National Nexus Program staff. Each state determines its own lookback period. Lookback periods may vary between states. The lookback periods published below are provided for guidance purposes only to assist taxpayers seeking voluntary disclosure relief in estimating the amount of past-due tax liability payment that may be required. **For a state that has implemented sales/use tax economic nexus, if the taxpayer has only sales/use tax economic nexus and no physical presence in that state, the sales/use tax lookback period would not commence earlier than the state's sales/use tax economic nexus implementation date. For states that have adopted sales/use tax economic nexus, please see the chart entitled "Sales/Use Tax Lookback Periods for Taxpayers With Economic Nexus Only."** As each state makes the final determination of the lookback period, following review of the taxpayer's application, the guidance below does not constitute specific advice and accordingly should not be relied upon without further confirmation from the state(s). Please note that withholding tax retained from employee salaries and sales and use tax collected from others must be remitted in its entirety, without regard to the lookback period, and may involve non-waivable penalties.

STATE LOOKBACK PERIODS			
Nexus Program States	Income/franchise tax	Sales/Use Tax	NOTES
	Lookback Period (complete prior tax years)	Lookback Period (complete prior months)	
Alabama	3	36	
Arizona	4	48	Lookback period for TPT/use tax is 48 months.
Arkansas	3	36	
Colorado	4	36	
Connecticut	3	36	
D.C.	3	36	Lookback period for franchise tax is 3 prior tax years.
Florida	3	36	Lookback period includes the 3 years immediately preceding the postmark date of the VDA request.
Georgia	3	36	Lookback period may be reduced/eliminated if no liability or refunds/losses exist.
Hawaii	3	n/a	The lookback period for both the general excise (gross income) tax and corporation net income tax is 3 complete prior tax years plus the current year.
Idaho	3	36	Lookback period may vary depending on the specific facts and circumstances of each request.
Iowa	5	60	Lookback period is one-half the periods normally due, with maximum of 5 years (20 quarters, 60 months).
Kansas	3	36	Kansas will consider allowing a longer lookback period if requested.
Kentucky	4	48	
Louisiana	3	36	Look-back period is 36 months plus any months due for the current calendar year.
Maryland	4	48	
Massachusetts	3	36	Lookback period can be 7 years for an in-state entity.
Michigan	4	48	
Minnesota	4	36	Lookback-period for Minnesota corporate franchise tax, S corporation tax, and partnership tax is generally 4 years (3 lookback years and 1 current year that is ready and available to be filed).
Missouri	4	48	For franchise tax years beginning on or after 1/1/2016, no franchise tax is imposed under RSMO 147.010.
Montana	5	n/a	Montana has no state sales/use tax.
Nebraska	3	36	
New Hampshire	3	36	
New Jersey	3	36	
New Mexico	SEE MANAGED AUDIT PROCEDURES		
North Carolina	3	36	
North Dakota	3	36	While the general lookback period is 3 years, a longer lookback period may apply to circumstances where it is clear a significant taxable presence in the state existed prior thereto.
Oklahoma	3	36	
Oregon	3	n/a	Oregon has no sales/use tax.
Rhode Island	3	36	3 years for income/franchise and 36 months for sales/use.
South Carolina	3	36	
South Dakota	3	36	Lookback period is 3 prior tax years for bank franchise tax.
Tennessee	3	36	Lookback period is 3 prior tax years plus the current year. For both taxes, it could be up to 4 years or 48 months.
Texas	4	48	
Utah	3	36	
Vermont	3	36	
Washington	4	48	Lookback period is the prior 4 calendar years plus the current year through the end of the last completed calendar quarter.
West Virginia	3	36	The franchise tax ceased for taxable years beginning on or after January 1, 2015, under W. Va. Code Section 11-23-6(b)(11).
Wisconsin	4	48	



## Sales/Use Tax Lookback Periods for Taxpayers with Economic Nexus Only

The states below participate in the National Nexus Program and have adopted sales/use tax economic nexus. If the taxpayer has only economic nexus in the state and does not have physical presence nexus, then the state's sales/use tax lookback period would begin as of the date that the state has implemented sales/use tax economic nexus. The beginning dates for the sales/use tax lookback periods for taxpayers with sales/use tax economic nexus only in the state are shown below. The lookback periods published below are provided for guidance purposes only to assist taxpayers seeking voluntary disclosure relief in estimating the amount of past-due tax liability payment that may be required. As each state makes the final determination of the lookback period, following review of the taxpayer's application, the guidance below does not constitute specific advice and accordingly should not be relied upon without further confirmation from the state(s).

Nexus Program States	Sales/Use Tax
	Economic Nexus Lookback Period Start Date
<b>Alabama</b>	<b>10/1/2018</b>
<b>Arizona</b>	<b>10/1/2019</b>
<b>Arkansas</b>	<b>7/1/2019</b>
<b>Colorado</b>	<b>12/1/2018</b>
<b>Connecticut</b>	<b>12/1/2018</b>
<b>D.C.</b>	<b>1/1/2019</b>
<b>Georgia</b>	<b>1/1/2019</b>
<b>Hawaii</b>	<b>7/1/2018</b>
<b>Idaho</b>	<b>6/1/2019</b>
<b>Iowa</b>	<b>1/1/2019</b>
<b>Kansas</b>	<b>10/1/2019</b>
<b>Kentucky</b>	<b>10/1/2018</b>
<b>Louisiana</b>	<b>7/1/2020</b>
<b>Maryland</b>	<b>10/1/2018</b>
<b>Massachusetts</b>	<b>10/1/2019</b>
<b>Michigan</b>	<b>10/1/2018</b>
<b>Minnesota</b>	<b>10/1/2018</b>
<b>Nebraska</b>	<b>1/1/2019</b>
<b>New Jersey</b>	<b>11/1/2018</b>
<b>New Mexico</b>	<b>See Managed Audit</b>
<b>North Carolina</b>	<b>11/1/2018</b>
<b>North Dakota</b>	<b>10/1/2018</b>
<b>Oklahoma</b>	<b>7/1/2018</b>
<b>Rhode Island</b>	<b>7/1/2019</b>
<b>South Carolina</b>	<b>11/1/2018</b>
<b>South Dakota</b>	<b>11/1/2018</b>
<b>Tennessee</b>	<b>10/1/2019</b>
<b>Texas</b>	<b>11/1/2019</b>
<b>Utah</b>	<b>1/1/2019</b>
<b>Vermont</b>	<b>7/1/2018</b>
<b>Washington</b>	<b>10/1/2018</b>
<b>West Virginia</b>	<b>1/1/2019</b>
<b>Wisconsin</b>	<b>10/1/2018</b>

## MEMORANDUM

To: Christy Vandevender, Chair, Nexus Committee

From: Richard Cram

Date: July 28, 2020

Re: Proposed Amendment to Standard Agreement re Electronic Payment

In processing Multistate Voluntary Disclosure Program voluntary disclosure agreements, MTC Nexus Staff have noted a recent trend with some states that are encouraging taxpayers to register, file back tax returns, and make back tax payments electronically. In some instances, the taxpayer may request to make payment electronically. This may be due to COVID 19 concerns and the difficulties in using paper checks and processing them. Those states are directing taxpayers to register and file back tax returns electronically, and requesting that taxpayers wait to make back tax payment electronically until after the state tax agency bills the taxpayer for the amount of tax owed, plus interest (and penalties, if any). This conflicts with Paragraph 5.1 of the Standard Agreement, which provides that the taxpayer has 60 days from the date the taxpayer receives notice that the state has signed the agreement to register, file back tax returns (or spreadsheets of permitted), and pay the back tax amount due (not including interest or any penalties). The taxpayer can either send those documents directly to the state, or to MTC staff, who will forward those on to the state. Under Paragraph 5.2, the state will then directly bill the taxpayer for interest (and any penalty) due, and the taxpayer is required to pay that amount to the state within 30 days of receipt of billing.

In order to accommodate states in the above situation (where either the state or the taxpayer requests electronic payment), the amendment to the Standard Agreement (attached) is proposed. Under this proposed amendment, if the state provides instructions that the taxpayer should first register and file returns (spreadsheets) electronically, and then wait for the state to directly bill the taxpayer for the tax plus interest and penalties (if any), the taxpayer can follow those instructions without violating Paragraph 5.1.4 of the Standard Agreement. Such instructions would be considered a “written extension” granted by the state under Paragraph 5.1. Language (shown in red text) is added to Paragraphs 5.1.4 to require the taxpayer to provide written confirmation to MTC staff of the amount that the taxpayer paid directly to the

state. It would also be helpful if state voluntary disclosure staff can confirm to MTC staff when the state has received the registration, returns and back tax amounts from the taxpayer, so MTC staff can close out the files and keep accurate records concerning back tax payments collected from taxpayers.

Voluntary Disclosure Agreement  
MTC 00-00 and [Signatory State]  
[Tax Type]  
Application Date:

## **VOLUNTARY DISCLOSURE AGREEMENT**

**MTC 00-00 & [Signatory State]**

**[Tax Type]**

In exchange for the mutual promises herein, the [State or Commonwealth] of [Signatory State], MTC 00-00, and the Multistate Tax Commission (“Commission”) agree as follows:

### **1. Parties**

The parties to this Voluntary Disclosure Agreement (“Agreement”) are the [State or Commonwealth] of [Signatory State], MTC 00-00, and the Commission. As used herein, “[Signatory State]” shall mean the tax administration agency for [Signatory State].

### **2. Purpose**

The parties agree to resolve MTC 00-00’s potential back [Tax Type] liability through compromise as set forth herein.

### **3. Scope**

The parties acknowledge that this Agreement concerns only [Tax Type], interest, and penalty thereon, if any.

### **4. Procedures of Multistate Voluntary Disclosure**

The Procedures of Multistate Voluntary Disclosure (“Procedures”) are incorporated herein by reference and, where applicable, govern this Agreement. The text of the Procedures is available at [www.mtc.gov](http://www.mtc.gov) or by request from the staff of the National Nexus Program.

### **5. Duties of MTC 00-00**

5.1. Unless [Signatory State] or the Commission grants a written extension, MTC 00-00 shall send to [Signatory State] or the Commission, subject to Subsection 5.1.4, the following within 60 days of written notice that [Signatory State] has approved MTC 00-00’s Agreement:

5.1.1. the complete Agreement signed and dated by MTC 00-00;

5.1.2. the [Tax Type] returns, or spreadsheets (if permitted by [Signatory State]) for time periods that begin after [Lookback Date] (and returns for all time periods for collected and unremitted sales/use or withholding tax);

Voluntary Disclosure Agreement  
MTC 00-00 and [Signatory State]  
[Tax Type]  
Application Date:

- 5.1.3. the registration forms or confirmation receipts from online registration, if the [Tax Type] requires registration; and
- 5.1.4. payment of tax due under the returns, or spreadsheets by check or money order payable to the taxing authority of [Signatory State]. If [Signatory State] requires electronic filing of such returns and electronic payment of such taxes, MTC 00-00 shall timely comply with such requirement. **MTC 00-00 shall provide written confirmation to Commission of the date and amount of any payment sent directly to [Signatory State].**
- 5.2. MTC 00-00 shall remit directly to [Signatory State] the penalty, if any, identified on the State Signature Page, and interest due with respect to time periods beginning after [Lookback Date] (and including penalty and interest on all time periods for collected and unremitted sales/use or withholding tax) not later than 30 days after receipt of notice from [Signatory State] of the amount due.
- 5.3. This Agreement is void, if MTC 00-00 fails to send to [Signatory State] or the Commission, subject to Subsection 5.1.4, all of the items listed in Subsections 5.1.1 through 5.1.4 of this Agreement within 90 calendar days after the date that the Commission sent the Agreement signed by [Signatory State] to MTC 00-00, unless [Signatory State] or the Commission has granted a written extension of time.
- 5.4. MTC 00-00 waives lack of nexus or jurisdiction to tax for any tax, interest, or penalty owed under this Agreement.
- 5.5. MTC 00-00 shall make its books and records available to [Signatory State] upon reasonable notice for the purpose of:
  - 5.5.1. verifying the accuracy of MTC 00-00's factual representations in this Agreement; and
  - 5.5.2. verifying the amount of tax due pursuant to returns or spreadsheets provided under Subsection 5.1.2 of this Agreement.

Voluntary Disclosure Agreement  
MTC 00-00 and [Signatory State]  
[Tax Type]  
Application Date:

## **6. Duties of [Signatory State]**

6.1. [Signatory State] shall:

6.1.1. not assess [Tax Type] and interest thereon attributable to any time period prior to and including [Lookback Date]; and

6.1.2. Except to the extent that [Signatory State] indicates on the [Signatory State]'s Signature Page that there is a non-waivable penalty, [Signatory State] waives all penalty arising from MTC 00-00's failure to register and file [Tax Type] returns, and make tax payments on [Tax Type] for all time periods prior to the Effective Date of this Agreement.

## **7. Duties of the Commission**

7.1. The Commission shall maintain an electronic copy of this Agreement pursuant to its records retention policy and shall provide a copy to [Signatory State] or MTC 00-00, if requested.

7.2. The Commission agrees to assist [Signatory State] or MTC 00-00 to address any issues pertaining to this Agreement, if either party requests.

## **8. Confidentiality and Disclosure**

[Signatory State], MTC 00-00, and the Commission agree not to disclose to any others the contents of this Agreement except in response to an inter-government exchange of information agreement, pursuant to a statutory requirement or lawful order, or as the other parties authorize in writing.

## **9. MTC 00-00 Representations**

9.1. MTC 00-00 provides its estimate of taxes due in Exhibit 1, which is attached to this Agreement and incorporated herein. The representations in MTC 00-00's application for multi-state voluntary disclosure are true and accurate, and such application is attached to this Agreement as Exhibit 2 and incorporated herein.

9.2. MTC 00-00 further represents that:

9.2.1. It has not received notice of audit from either [Signatory State] or the Commission on behalf of [Signatory State] with respect to any type of [Signatory State] tax for which voluntary disclosure relief is provided herein;

Voluntary Disclosure Agreement  
MTC 00-00 and [Signatory State]  
[Tax Type]  
Application Date:

- 9.2.2. It has not received an inquiry from [Signatory State] or the Commission on behalf of the state regarding potential liability arising from any type of [Signatory State] tax for which voluntary disclosure relief is provided herein; and
- 9.2.3. It has not filed a tax return or an extension request with [Signatory State], made a tax payment to [Signatory State], or taken any similar action with [Signatory State] concerning any type of [Signatory State] tax for which voluntary disclosure relief is provided herein (requests for information and other communications with [Signatory State] or the Commission in which MTC 00-00 remains anonymous are permitted).
- 9.3. [Signatory State] is relying on MTC 00-00's representations made herein in entering into this Agreement. If [Signatory State] determines that MTC 00-00 has made a material misrepresentation or omission of fact in this Agreement, [Signatory State] may, within 90 days of the discovery thereof, void this Agreement, retain all tax, interest, and penalty (if any) already paid and enforce its tax laws.
- 9.4. A misrepresentation or omission of fact by MTC 00-00 is material if [Signatory State] reasonably would not have entered into this Agreement, or would have done so on terms significantly more favorable to itself had it not relied upon such misrepresentation or omission.
- 9.5. Any misrepresentation or omission of fact by MTC 00-00 in Subsection 9.2.1, 9.2.2, or 9.2.3 of this Agreement shall be deemed material.

Voluntary Disclosure Agreement  
MTC 00-00 and [Signatory State]  
[Tax Type]  
Application Date:

## 10. Miscellaneous

- 10.1. Each party to this Agreement warrants that the person executing it on that party's behalf is authorized to do so.
- 10.2. Addendum A, attached hereto, is incorporated herein as part of the Agreement to the extent Addendum A applies to [Signatory State].
- 10.3. This Agreement may be signed in counterparts, each one of which is considered an original, and all of which constitute one and the same instrument. Images of signatures transmitted electronically shall be considered as valid signatures. No provision of this Agreement shall be waived or modified except in writing signed by all parties to this Agreement.
- 10.4. The law of [Signatory State] governs this Agreement. Jurisdiction and venue of any administrative or judicial action with respect to this Agreement lies exclusively in the appropriate administrative or judicial body of [Signatory State].
- 10.5. This Agreement is fully executed on the Effective Date, which is the latest date by which [Signatory State], MTC 00-00, and the Commission have signed it and MTC 00-00 has performed all duties required in Subsection 5.1 of this Agreement. However, failure of the Commission to sign the Agreement does not affect its validity with respect to the mutual obligations of [Signatory State] and MTC 00-00.



Voluntary Disclosure Agreement  
MTC 00-00 and [Signatory State]  
[Tax Type]  
Application Date:

**STATE SIGNATURE PAGE**

[Signatory State] enters into this Agreement:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Non-waivable penalties arising from MTC 00-00's potential back [Tax Type] liability (see Subsection 6.1.2, above) are:

\_\_\_\_\_

\_\_\_\_\_.

To the extent that this Agreement concerns Sales/Use Tax, may MTC 00-00 file spreadsheets in lieu of actual returns? Initial here: \_\_\_\_\_ Yes. \_\_\_\_\_ No.

Voluntary Disclosure Agreement  
MTC 00-00 and [Signatory State]  
[Tax Type]  
Application Date:

**MULTISTATE TAX COMMISSION SIGNATURE PAGE**

The Commission enters into this Agreement:

Multistate Tax Commission

By: \_\_\_\_\_  
Gregory S. Matson  
Executive Director  
Multistate Tax Commission

Date: \_\_\_\_\_

Voluntary Disclosure Agreement  
MTC 00-00 and [Signatory State]  
[Tax Type]  
Application Date:

**MTC 00-00 SIGNATURE PAGE**

MTC 00-00 Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

FEIN: \_\_\_\_\_

MTC 00-00 enters into this Agreement:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

VOLUNTARY DISCLOSURE AGREEMENT

MTC 00-00 & [Signatory State]

[Tax Type]

**ADDENDUM A**

The following provisions are included in the Voluntary Disclosure Agreement entered into by MTC 00-00, the Multistate Tax Commission and the State of **Arizona, Georgia, Missouri, or District of Columbia**, as indicated below:

For **ARIZONA CORPORATE TAX**, add new Subsection 5.6, including Subsections 5.6.1, 5.6.2, and 5.6.3:

- 5.6. *With regard to net operating losses in Arizona, MTC [XX-XXX] shall:*
- 5.6.1. *waive the carry-forward option on all net operating losses generated in tax years before the start date;*
  - 5.6.2. *suspend the deduction of net operating losses for periods beginning after [Lookback Date] through the Effective Date; and*
  - 5.6.3. *agree that net operating losses generated in periods beginning after [Lookback Date] through the Effective Date may be utilized, pursuant to statute, for tax years beginning after the first year ending after Effective Date.*

For **ARIZONA TRANSACTION PRIVILEGE TAX**, add new Subsection 5.7:

- 5.7. *[MTC YY-NNN] shall become duly licensed for Transaction Privilege, Use and Severance Tax with the Department and applicable Program Cities and Towns by registering on [www.AZTaxes.gov](http://www.AZTaxes.gov) and pay all state and city license fees or by submitting a Joint Tax Application (Form JT-1) with payment for state and city license fees. **The Taxpayer shall also become duly licensed for Privilege Tax with all applicable Non-Program Cities and Towns** and pay all associated license fees for the Period. The Taxpayer shall comply with all licensing provisions of Title 42 of the Arizona Revised Statutes and the Model City Tax Code. Taxpayer will file **TPT-1 returns and applicable Non-Program City and Town Privilege Tax returns** that are due as of the [Effective Date] forward, as required by law, and continue to file returns for not less than eight (8) years from the Effective Date of the Agreement, provided that the business remains active, until such time as [MTC YY-NNN] no longer has nexus for tax purposes in Arizona, or until a change in law occurs due to legislative enactment or final judicial determination, in which the change clearly provides that [MTC YY-NNN] is not subject to Transaction Privilege and Use Tax. Taxpayer and the Department agree that such change will be applied prospectively only from the date of such legislative enactment or*

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*judicial determination, even though the change may be interpreted to apply retroactively. Taxpayer hereby waives any claim for refund and any right of appeal of any assessment for tax subject to the change in law for periods that would be subject to retroactive application.*

For **GEORGIA SALES/USE AND WITHHOLDING TAX**, add new Subsection 5.1.3.1:  
*5.1.3.1. the Georgia sales and use tax (withholding tax) registration number, after [MTC XX-XXX] has registered online, effective the first day of the month following [MTC XX-XXX]'s acceptance of this Agreement; and*

For **GEORGIA SALES/USE, INCOME/FRANCHISE, AND WITHHOLDING TAX**, add new Subsection 5.6:

*5.6. In consideration for the Department waiving all applicable penalties and filing requirements for prior periods, [MTC XX-XXX] waives all rights to net refunds for all periods included in this agreement. Anonymous [MTC XX-XXX] also forfeits all NOL carryovers and waives its right to all net refunds for all periods included in this voluntary disclosure agreement.*

For **MISSOURI INCOME/FRANCHISE TAX**, add new Subsection 5.6:

*5.6. No loss carry forward for losses realized in any year before the first year filed pursuant to this agreement will be allowed for any filing period covered by this agreement or periods after this agreement. No loss carry back for losses realized in any year after the periods covered by this agreement will be allowed for such periods.*

For **DISTRICT OF COLUMBIA** add after the word “penalty” wherever used in Subsections 3.1, 5.2, 6.3.2, 10.2 and the State Signature Page: “*and fees*”.

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EXHIBIT 1

ESTIMATE OF TAXES DUE

**State:** [Signatory State]

MTC 00-00 *estimates* that it will pay a total of \$ [Estimate] in discharge of its [Tax Type] liability for the periods beginning after [Lookback Date].

The above amount is only a good-faith estimate of the actual tax payment that will be due. This Agreement requires payment of the actual amount of tax due under the returns, or spreadsheets submitted by MTC 00-00 for periods beginning after [Lookback Date], irrespective of the estimated amount provided here.

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[Tax Type]  
Application Date:

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EXHIBIT 2

MTC 00-00 REPRESENTATIONS