



National Nexus Program
Director's Report
Meeting at Charleston, South Carolina
December 9, 2015

This report updates the Nexus Committee on activity of the National Nexus Program from July 1, 2015 until October 30, 2015. (The Commission produces reports cumulatively over each fiscal year beginning on July 1 and updates over the fiscal year (June 30 year end) until the final report of the fiscal year that is presented at the committee's July meeting the following calendar year.)

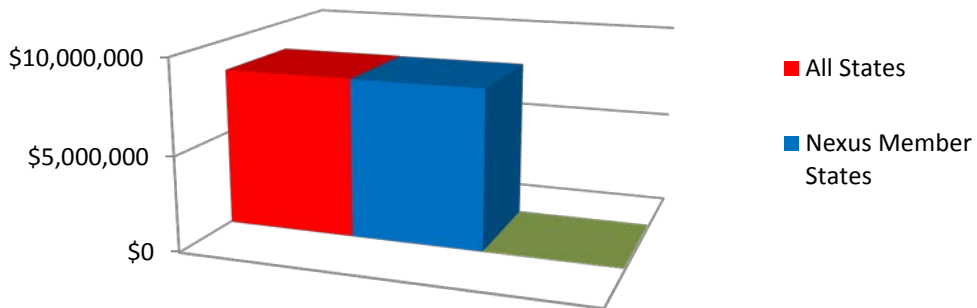
Multistate Voluntary Disclosure

This year has started off well and signs point to a good year overall for disclosure revenue. Staff has at least one in-process disclosure that is expected to recover several million dollars (not reflected below). The average value of each disclosure to date has increased substantially from last fiscal year.

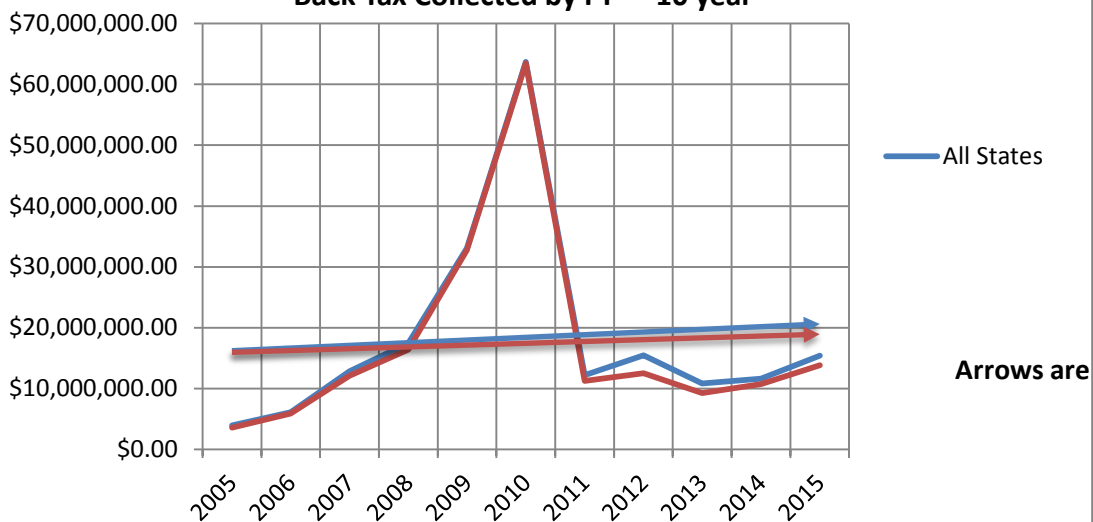
• Nexus states' collections for period:	\$8,041,067	(\$13,850,712 in all FY 2015)
• All states' collections for period:	\$8,060,244	(\$15,392,887 in all FY 2015)
• Nexus states' executed contracts for period:	189	(551 in all FY 2015)
• All states' executed contracts for period:	203	(628 in all FY 2015)
• Nexus states' avg. contract for period:	\$42,545	(FY 2015: \$25,137)
• All states' average contract for period:	\$39,706	(FY 2014: \$24,510)

These amounts include only funds actually received by the Commission before the Commission closes its File. Interest on back tax paid and the value of a new taxpayer, both substantial revenue producers, are not included. The difference between Nexus states' collections and all states' collections has narrowed to almost zero because the NNP stopped accepting applications on behalf of non-member states on July 1, 2014. The small amount collected on behalf of non-member states to date in FY 2016 comes from disclosures begun before July 1, 2014.

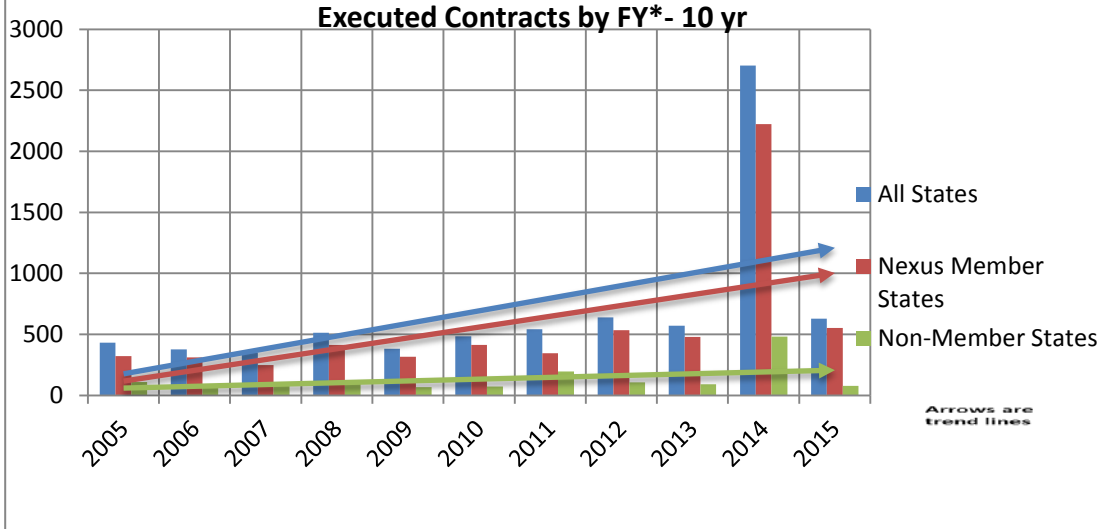
**FY 2016 to date
(July 1 - Oct. 30, 2015)**



Back Tax Collected by FY* - 10 year



Executed Contracts by FY*- 10 yr



Strategic Planning

The Nexus Committee decided at its January 8, 2014 teleconference to pursue strategic planning in accordance with the Commission's overall strategic planning, which has been under way for about four years. With the assistance of consultant Elizabeth Harchenko, the Nexus Committee has launched two projects:

1. Increase membership by identifying barriers to membership, giving member a fuller appreciation of the benefits of membership, and increasing those benefits; and
2. Identify improvements to the NNP's multistate voluntary disclosure process.

Each project has had a project team composed of volunteers from the Nexus Committee. The teams have worked between meetings of the Nexus Committee to advance the projects and to identify decisions for the full committee.

Status of Membership Project

The committee began substantive work on this in January 2015. The project team presented its final report for the Nexus Committee's review at its July 27, 2015 meeting.

Background:

Currently there are thirty-seven member-states (including the District of Columbia). The Membership project team contacted personnel in non-member states to discuss reasons for not joining, or for having withdrawn, and similar issues.

At the Nexus Committee meeting in Nashville on December 2014, Chairman Lennie Collins solicited committee participants for information on how state members have benefitted from the Nexus Program, how the program could better assist states, and what attracted the states to join it. The Chairman asked that the representatives, upon their return to their states, direct those questions to those in their respective departments who were in the best position to answer them, and to come to the March 11 Nexus meeting to discuss the responses. The committee discussed the information at that meeting.

Teleconferences of the project team took place through July 2015. The project-team submitted its final report to the Nexus Committee at its meeting in Spokane, Washington on July 27, 2015. The committee approved the report for

submission to the Strategic Planning Steering Committee, which Chairman Collins did later that week. You will find the report in the Appendix. Nexus Committee members also received it by email. And it is available on the Commission's website via the page for the December 2015 meetings.

Status of Project to Improve Multistate Voluntary Disclosure

Please see the project team's final report in the Appendices. The project team met regularly since July 2015. It completed its work and will submit its final report to the Nexus Committee for its consideration at its December 9, 2015 meeting. Team members contacted practitioners to get feedback, and have asked the states for their comments on how the process works for them.

The Nexus Committee will review this report at its December 9, 2015 meeting. The committee may reject, delay consideration, send back to the project team for more work, amend and refer to the Strategic Planning Steering Committee, or accept and refer to the Strategic Planning Steering Committee.

Technology

The NNP and information technology (IT) staffs continue to work with a software vendor to maintain and upgrade the NNP's technology. Technological efficiencies are critical given the program's small staff and the large number of disclosures. However, progress has been slow on account of stretched resources.

The vendor and Commission staff have verified the accuracy of voluntary-disclosure reports, documented the source of their data, and documented on the face of the reports precisely what data they provide. All prior reports given to the Nexus Committee were accurate, but we did not fully understand how the data were computed.

The next project is to revamp the online application for voluntary disclosure. Designed in 2007, it needs to be re-written to work well with contemporary browsers. The work-around is to submit multiple fill-in PDF files. The NNP removed the option to submit an application in Word from the Commission's website; it was insecure because applicants could change the wording of the questions, and it was a bit less professional-looking than the fill-in PDF. The options to apply for multistate voluntary disclosure are now either the online application (with its quirks and occasional failures) and the fill-in PDF.

The NNP and IT department have been proceeding cautiously in revamping the online application. First, we are carefully comparing the cost and benefit

of the online application over less sophisticated methods such as the fill-in PDF. Second, our project requires that the vendor not only have the proper programming skills but must also understand the unique function of the online application. Third, and most critically, it must both take very seriously that the product be highly secure and have the technical ability to make it so. And all this at substantial discounts from DOD prices. Such vendors are rare.

Staffing

I will leave my position as NNP director on January 23, 2016 to work on legislation and legal issues for the Commission. I will remain a full-time employee of the Commission in my new role. I joined the Commission's National Nexus Program in late 1998 as ass't counsel; was promoted to counsel; left the NNP to work as counsel in the legal division on uniformity; and returned to the National Nexus Program in 2007 as director. I stated to this author, "It's been a great run. I've worked with wonderful people in the states and private sector, which I have thoroughly enjoyed. But leadership needs to change from time to time, and it's that time for me and the National Nexus Program. I look forward to contributing to the Commission, the states, and taxpayers in a different, but still personally fulfilling way. I have great confidence that the next director will continue the Nexus Program's growth and make it even better than it already is. I leave him a dedicated, highly-experienced staff."

The National Nexus Program employed slightly more than three FTEs (full-time employee equivalents) for the first part of fiscal year 2016. Staff are voluntary-disclosure processors (paralegals) Diane Simon-Queen and Michelle Lewis; part-time administrative assistant Ellyn Conn; and director Thomas Shimkin.

Associate Director Ben Abalos resigned effective June 5, 2015 because he moved out of commuting distance from the Commission. His position remains vacant, but it will be filled when the next director of the NNP is ready to participate in the hiring decision. Persons interested in this position may contact me (Thomas Shimkin) at (202) 695-8139 to learn a little more about it, although the position has not yet been officially announced and the Commission is not yet accepting applications. The position will be in Washington, D.C. The duties will depend on the preferences of the new director.

Ellyn is a junior at Catholic University. she resigned on December 5, 2015 to concentrate on exams and to do a junior semester abroad in the spring. An undergraduate from Georgetown University has agreed to take her place for

the spring semester (January – May). She will resign in May for the same reasons as Ellyn's. The new NNP director may choose to hire a replacement at that time. Chiefly because we pay a competitive salary compared to on-campus jobs, there have been many very-qualified applicants for this position from students each time I have filled it. The work of this position is chiefly to support the voluntary disclosure service by filing papers, data entry, and preparation of mailings. Hiring an employee directly is far less expensive than hiring a temp agency to supply someone. Assumption of these and other administrative activities has allowed NNP paralegals more time to focus on the more complicated aspects of multistate voluntary disclosures and to speed processing.

Diane and Michelle work almost exclusively on the administrative processing of disclosures other than what Ellyn does. This entails preparing standard contracts, answering process questions, communicating between states and taxpayers, consolidating and mailing documents, and documenting their activities in our computer system.

Ben taught Nexus School, answered taxpayer questions about voluntary nexus and voluntary disclosure, processed a small number of disclosures, made outreach presentations, staffed strategic planning, worked with the Commission's IT department and a software vendor to make needed repairs and updates to voluntary disclosure technology, and assisted Thomas generally with management of the NNP.

Thomas has management and supervisory responsibility for the National Nexus Program, which includes personnel, keeping up to date on nexus law to answer questions from taxpayers, advise states, and assist the Legal Division on selected projects; reviewing disclosure applications and contracts for legal and policy issues; fielding initial contacts with voluntary disclosants and trouble-shooting their disclosures; maintaining relationships with taxpayers and states; staffing the Nexus Committee; ensuring uniformity of NNP policy and procedures; encouraging states to remain uniform in their voluntary disclosure policies; and making outreach presentations to taxpayer groups and states about the Commission and the NNP.

Meeting Schedule

The next regularly-scheduled Nexus Committee meeting after the one on December 9, 2015 will take place on either March 2,3, or 4, 2016 in Salt Lake City, Utah. Details will be available as the time approaches. The meeting will be held in conjunction with other program meetings.

Nexus School

Nexus director Thomas Shimkin, counsel Bruce Fort, and contractor Joe Thomas (formerly Director of Audit, Conn.) taught a well-attended Nexus School in Helena on November 17 and 18, 2015.

No Nexus Schools are currently scheduled. Please contact Director of Training Ken Beier at (202) 650-1983 or Kbeier@mtc.gov if your state would like to host a school. Doing so is simple, and allows a credit toward tuition for state attendees.

Outreach Speaking Engagements

Nexus staff has been invited to serve on a panel that will discuss multistate voluntary disclosure in the spring of 2016 at the ABA/IPT tax conference in New Orleans. The NNP is trying to limit unreimbursed travel, so whether we participate will be determined in part by the answer to that pending question.

Request for Web links

Please consider adding a link to the Commission's voluntary disclosure page if your state does not yet have one. Links from states' web pages, as well as referrals after a state audit, are an important source of applicants who would not otherwise know of the program. Apply the Golden Rule: Do it for your sister states! The link should read 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, multistate disclosure process: www.mtc.gov or Nexus@mtc.gov or (202) 695-8140.”

APPENDICES

Multistate Voluntary Disclosure Improvement Team
Report to
Nexus Committee and Strategic Planning Steering Committee
December 17, 2015

Background

At the recommendation of the Nexus Committee, the MTC Strategic Planning Steering Committee approved a project to identify opportunities to streamline the Multistate Voluntary Disclosure Program so that it works more efficiently for taxpayers and states. The project team began working in January 2015. This report describes our process and findings, and recommends further action that the project team believes will help improve the Multistate Voluntary Disclosure process for states and taxpayers.

Project Description

Problem: The Multistate 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 Multistate 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. Also, a complex system can result in a slower process.

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.
- List of recommended measures for determining whether more taxpayers and states are using the MTC VDP.
- Recommended targets for time to complete a voluntary disclosure.

Process

We gathered information in four ways. First, we interviewed taxpayer representatives who have used the Multistate Voluntary Disclosure Program. Second, we asked for feedback from the states through e-mail and during Nexus Committee meetings. Third, the MTC Nexus staff gathered data on the time it takes to process a voluntary disclosure, including the time elapsed between the major steps in the process. Finally, we conducted interviews of some states from which we thought we could gain more insight into the causes for delay in the process. We were looking for stages in the process where significant amounts of time elapsed between steps, causing the overall process to be delayed.

Findings

The Multistate Voluntary Disclosure process involves nine major stages of activity:

1. Taxpayer application for voluntary disclosure
2. MTC staff prepares draft voluntary disclosure agreement for taxpayer
3. Taxpayer approves draft agreement (or requests changes, which may result in a period of negotiation)
4. MTC staff sends draft of taxpayer agreement to state(s)
5. States review and approve agreement (or make counter offer to taxpayer changes)
6. MTC staff sends final agreement to taxpayer for signature
7. Taxpayer returns signed agreement with appropriate returns/spreadsheets/payment
8. MTC staff transmits full package to state(s)
9. MTC staff enters records data in database and retains copies of contract and accompanying documents.

According to the *Procedures of Multistate Voluntary Disclosure*, posted on the MTC web site, there are time frames specified for the major stages of activity. The time frames are *maximum* time frames. For taxpayers, the time frames are the maximum allowable to protect the taxpayer from losing anonymity and protection from discovery while the application is pending. For the MTC staff, the time frames are maximum times within which information or documents are to be provided to taxpayers or the states. For the states, the time frames are the maximum time the states represent that they may need in order to make a decision or take an action. Based on the maximum time frames specified in the Procedures, a voluntary disclosure should take no more than 7 months if there are no counter offers or requests for information involved. Data gathered by MTC National Nexus staff indicate that "clean" applications typically take between

three and four months to complete. If counter offers or requests for information are involved, the time frame for completion of a voluntary disclosure may be increased by several months.

The stages in the process in which MTC staff are directly involved usually occur in a timely way, and staff actions are generally completed well within the maximum time specified in the Procedures. The stages at which delays are most likely to occur are those in which the taxpayer or the states must take some action. Specific examples include:

- Taxpayer questions about process before a completed application is filed
- Taxpayer requests for special treatment, such as different look back period, which must be reviewed by the state
- State delays in responding to MTC contacts
- State requests for additional information from taxpayers
- Taxpayer delays in completing tax returns, schedules and registration forms after a voluntary disclosure agreement has been signed by the state

With the exception of one unusual situation (2013), data for the years 2012, 2013 and 2014 indicate that the numbers of applications filed by unique taxpayers has remained fairly constant at around 100 per year, resulting in between 550 and 750 individual voluntary disclosure applications (one taxpayer/one state). Of those applications, at least half were for 5 or fewer states. The 2012-2014 data also indicates that, typically, around 500 disclosure agreements (between one taxpayer and one state) are executed each year. Exceptions occur when a large number of applications have come in.

In 2013 a single taxpayer representative filed applications on behalf of about 150 similarly-situated taxpayers. Those applications each involved more than 20 individual states. In 2014, over 2,260 disclosure agreements were executed, reflecting the significant number of applications from the prior year. According to the National Nexus Program Director, you can count on this kind of thing happening occasionally, you just cannot predict when it will happen.

Other issues that can affect the total amount of time for completion of a voluntary disclosure agreement are:

- MTC staff noted that processing paper documents submitted by either taxpayers or the states takes longer than processing materials submitted electronically
- MTC staff also noted that they are often unaware of changes in state law or policy, and learn about these kinds of changes only when a state submits a counter offer or a request for additional information
- MTC staff and the states noted that the complexity of a filing – either the total number of states for which a taxpayer is seeking to make disclosure or the

number of tax types for which a taxpayer seeks to make disclosure – adds to the total amount of time that completing agreements can take

- There are a variety of electronic data formats requested by the states for schedules that support applications for disclosure, which can contribute to taxpayer confusion, error or delay in submitting the final disclosure package
- Turnover in state personnel, internal state procedures, and states' resources that are devoted to voluntary disclosure also affect the efficiency of the voluntary disclosure process

Our interviews with state agency personnel indicated that there are many differing sets of expectations about what the MTC National Nexus staff should be doing once an agreement has been reached between the state and the taxpayer. One difficult area to address seems to be identifying the best time for MTC to hand the matter off to the state for direct follow up with a taxpayer – after an agreement is reached; after payment is received; or only after all information requested by the state (registration, returns, supporting schedules, etc.) are completely and correctly submitted by the taxpayer.

Finally, we have heard that although national accounting firms are well aware of the Multistate Voluntary Disclosure program, practitioners in smaller local or regional firms are not as familiar with the program.

Recommendations

Based on our research and the feedback we have received, the project team recommends the following action items and projects to improve the efficiency of the Multistate Voluntary Disclosure process:

Project: Review document submission processes and identify ways to further automate these steps in the process – according to MTC National Nexus Program staff, many of the documents that move between taxpayers and the states are still going through the paper mail system. Time savings can be achieved if most or all documents can be transmitted electronically. The project team recommends that the Nexus Committee consider sponsoring a project to review the processes by which documents are transmitted.

Project: Review MTC Multistate Voluntary Disclosure materials on the web site for clarity and ease of use – the materials on the MTC web site are detailed and consist exclusively of text material. It is difficult for taxpayers to find key requirements, deadlines and other information that is important for preparation of a disclosure application and successful completion of the

voluntary disclosure process. States and taxpayers could save significant amounts of time if key requirements and time lines were highlighted. The project team recommends that the Nexus Committee consider sponsoring a project to review the web site materials and organize them for clarity and accessibility.

Project: Review the Multistate Voluntary Disclosure application and agreement format, and update them to determine whether current state-specific voluntary disclosure requirements are absolutely necessary. One of the primary goals of the multistate voluntary disclosure program is that it provides a “one stop” process for taxpayers that is more streamlined than going to each of the states separately. One of the “time eaters” that we heard about was the need to “tailor” the voluntary disclosure agreement for specific state requirements. There are now numerous footnotes in the MTC standard agreement that reflect specific state requirements that have been added over time. It appears to the team that it is time to review the application and agreement formats so that a single document can be used for all states. The team recommends that the Nexus Committee consider sponsoring a project to review the application and agreement forms to make them usable for all of the states with a minimum of tailoring.

Action Item: MTC National Nexus Program staff should annually solicit updated information from the states on changes in laws, rules, policies or procedures (including tax amnesties). Tax nexus is a constantly changing area of law and policy. The National Nexus Program staff can provide better service to both taxpayers and states if those staff members have the most up-to-date information about state nexus and voluntary disclosure programs available.

Action Item: MTC National Nexus Program staff host an annual training for state personnel who work with voluntary disclosure to review the MTC procedures and policies. We learned from our conversations with many states that the people who work with voluntary disclosure applications may not be the people who attend Nexus Committee meetings. Also, there is turnover among state personnel. A regular review, which could be by teleconference, would help both MTC National Nexus Program staff and state personnel have a common understanding of how the process works, and what issues are causing concerns.

Action Item: The MTC National Nexus Program staff should reach out to state, local and regional practitioner groups to seek greater awareness of the Multistate Voluntary Disclosure Program. Although many national level practitioners are aware of the multistate voluntary disclosure program, regional and state practitioners are not as well informed. Asking for regional, state and local associations to include material about the program on their web sites and in newsletters would raise the profile of the program and enable more taxpayers to use it.

Action Item: The MTC Nexus Committee should have a regular discussion about the Multistate Voluntary Disclosure Program performance. Our discussions with the states revealed that their expectations for the multistate voluntary disclosure program change over time. Two policies were adopted recently in recognition of MTC staff resource limitations (\$500 minimum threshold to process a disclosure application for a state; eliminate service for taxpayers who want to file in a state that is not a Nexus program member). These changes were effective July 1, 2014. Nexus Committee should review the effect of these changes on levels of service to taxpayers after they have been in effect for a few years. The Nexus Committee should regularly discuss the fundamental purpose for the multistate voluntary disclosure program and review the balance between resources, state expectations and taxpayer convenience in light of the program's purpose and goals.

Respectfully submitted,
Multistate Voluntary Disclosure Improvement Team

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UPDATES ON NEXUS LAW WILL BE PROVIDED IN A SEPARATE DOCUMENT SHORTLY.