



MULTISTATE TAX COMMISSION  
*Working Together Since 1967*  
*to Preserve Federalism and Tax Fairness*

TO: Executive Committee  
FROM: Lennie Collins, Nexus Committee Chair  
RE: Nexus Committee Activities  
DATE: November 23, 2009

### Fiscal Year 2010

#### Interim Report: **July 1, 2009 – October 31, 2009**

This report reviews Nexus Committee activity to date in fiscal year 2010 (July 1, 2009 through October 31, 2009).

#### **Committee Activities**

The committee met once during this period, in Kansas City, Missouri, on July 28, 2009.

The committee heard staff reports about activities of the National Nexus Program and offered general direction to Nexus program staff. The Executive Committee should be aware of the following items:

- Staff taught a two-day **Nexus School** training in Topeka during this period. A Nexus School training is scheduled for December in the Washington, DC area. Unlike all other Nexus School trainings, this one is hosted by the Commission itself rather than a host state. There are no other Nexus Schools scheduled for FY 2010 at this time, but staff continues to solicit offers from states to host.
- The committee concluded its markup of the draft **voluntary disclosure guidelines** and voted to approve them as amended. Similar to an audit manual, this document when implemented will provide guidance to Commission staff and taxpayers regarding state voluntary disclosure policies. The committee anticipates sending the document to the Executive Committee for consideration at its May meeting.
- The committee continued its oversight of the renovation and improvement of the Commission's **voluntary disclosure software**. Staff and the Commission's software vendor completed the first portion of this project, including implementation of the feature to improve the experience for disclosants by allowing them to apply for voluntary disclosure through the commission's website. Staff believes that the Commission is second only to New York in implementation of an online application.

Staff is using the software to track disclosures (approximately one thousand potential state contracts at any given time) and manage work flow more efficiently.

The committee asked staff to further develop the goals and general conceptual outlines of phase II of this project, which involves giving states and taxpayers access to the software so that they may perform some functions themselves, and facilitating anonymous electronic communication between states and taxpayers. The second portion remains an unfunded concept for now.

- In closed session, the committee heard a **presentation from a member state attorney on nexus litigation**, which included discussion of suggested legal theories and strategies regarding current and future litigation. The committee then had a **roundtable discussion** of the presentation that also included discussion of audit leads and enforcement techniques, and the status of specific nexus audits in member states. The committee will likely continue its roundtable discussions at future meetings.
- Still in closed session, the committee considered whether to look further into the **nexus status of a specific business** entity. It asked staff to collect and present information for its consideration at its next meeting.

### **Multi-state Voluntary Disclosure**

In fiscal year 2010 to date (June 30, 2009 through October 31, 2009) the National Nexus Program:

- Executed contracts with 50 taxpayers, which resulted in 175 separate contracts with states.
- Opened new voluntary disclosure Files for 30 taxpayers, representing 367 potential state contracts.

Please note: Some opened Files are closed without an executed contract or are closed with less than the initially estimated number of contracts executed. In other words, if history is a guide, roughly half the 367 potential contracts will result in executed contracts.

- Collected back tax of **\$56,952,924** (likely to rise slightly due to late-arriving data).

Please note: This amount includes only back tax actually collected (cash, not accrual basis). It may also contain a trivial amount of penalty, interest, and miscellaneous fees if they were collected before conclusion of the voluntary disclosure. It does not include any tax, interest, penalty, or other thing of value collected after the voluntary disclosure process.