



**Nexus Committee Meeting
Minutes - Open Session
March 3, 2011**

Intercontinental Kansas City at the Plaza
401 Ward Parkway, Kansas City, Missouri

- Salus populi suprema lex esto -
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NAME	AFFILIATION	NAME	AFFILIATION
Chris Sherlock	AL	Antonio Soto*	MTC
Christy Vandevender	AL	Diane Simon-Queen*	MTC
Danny Walker*	AR	Michelle Lewis*	MTC
Walter Anger*	AR	Lennie Collins	NC
Jim Zenk	Ernst & Young	Mary Loftsgard*	ND
Kevin Boyer	Ernst & Young	Myles Vosberg*	ND
Anita DeGumbia	GA	Lee Evans	NJ
Randy Tilley	ID	Rebecca Abbo	NM
Laurie Riva	IL	Louie Gomez*	NM
Bryan Vargas	KS	Janielle Lipscomb	OR
Pat Verschelden	KS	Tim Donovan	SC
Ellen Auger	MN	Brandin Seibel	SD
Keith Getschel	MN	Terry Frederick	Sprint
Cathy Felix	MTC	Stacy Gibson	TN
Greg Matson	MTC	Joan Cagle*	TN
Jeff Silver	MTC	Hermi Nanez*	TX
Joe Huddleston	MTC	Michael Christensen *	UT
Ken Beier	MTC	Shelley Robinson*	UT
Les Koenig	MTC	J. Richard Harvey, Jr.	Villanova School of Law
Steve Yang	MTC	Warren Townsend	Walmart
Ted Jutras*	MTC	Roy Davis	WI

* *attended by telephone*

Chairman Lennie Collins called the meeting to order at 8:30 a.m. Attendees in physical attendance and on the telephone identified themselves.

Review of Agenda

The Committee approved the agenda as proposed.

Review of Previous Minutes

The Committee approved the minutes of the July 2010 Nexus Committee meeting without amendment.

The chair invited public comment on any matter of concern to the committee. No one commented.

Nexus Director's Report

Thomas Shimkin, Director of the National Nexus Program, reviewed staff activities and other matters:

Procedures

Mr. Shimkin reminded the committee that it had approved the *Procedures of Multi-state Voluntary Disclosure* at its July 2010 meeting. He reminded the committee that the *Procedures* essentially codify existing procedures with respect to multi-state voluntary disclosure. He said that the Executive Committee had reviewed them and that the Commission has posted the *Procedures* on its website. He noted that they are in effect and that taxpayers in voluntary disclosure will rely on them. He reminded committee members that the *Procedures* allow a state to opt out of any provision simply by requesting a footnote to that effect.

Website

Mr. Shimkin noted that he had substantially re-drafted the Nexus section of the Commission's website in an effort to make it more useful. In particular, he said that he had re-drafted the explanation of the multi-state voluntary disclosure process to better reflect the *Procedures* and contemporary practice.

Voluntary Disclosure Contract

Mr. Shimkin also noted that he had re-drafted the template voluntary disclosure agreement used by almost all states for their multi-state voluntary disclosure contracts. By eliminating unnecessary language, the revision shortens the document without making material changes. It incorporates the rules of the *Procedures of Multi-state Voluntary Disclosure* by reference, which, he said is essentially a codification of current practice, and it adds sections and subsections for easy citation. He said that the Commission would alert state personnel to the changed template as it is put into service. He emphasized that state-specific modifications, as certain states request, will be retained as they were in the previous version.

Mr. Shimkin reviewed in general the terms of the revised contract, pointing out in particular:

- No one admits the existence or absence of nexus
- A contract signed by a state and unaccepted by a taxpayer after 90 days becomes void
- The *Procedures* are incorporated by reference

Membership

Mr. Shimkin gratefully noted that the Nexus Program is finishing up fiscal year 2011 with thirty-eight members, as it began the year. He said that the present membership is adequate to maintain the current level of services.

Nexus Schools

Mr. Shimkin informed the committee that staff had taught a Nexus School in October 2010 in Helena, and that one is scheduled for May 11 and 12 in Denver.

Marketing

Mr. Shimkin explained that he and other Commission staff advertise the multi-state voluntary disclosure program at each speaking engagement. Mr. Shimkin made presentations at the following since the committee's last meeting: Tax Executives Institute (Income Tax Symposium); New Jersey Society of Certified Public Accountants; and the Cornell Tax Club (New York City). He emphasized that states can be a fruitful source of referrals for their sister states by informing taxpayers of the multi-state program at the conclusion of a state audit resulting from a nexus discovery.

Multi-state Voluntary Disclosure

Continuing, he explained the results of the multi-state voluntary disclosure program. Calendar year 2010 achieved \$14.3 million revenue for states, approximately the same as calendar year 2008. CY 2009 was outsized at \$86.8 million due to a single taxpayer.

Comparing results on a fiscal year basis, he said, the first six months of fy 2011 yielded \$8.2 million compared to \$63.6 million in full-year fy 2010 and \$32 million in full-year fy 2009 (2010 and 2009 were outsized due to a single taxpayer).

The average value of a voluntary disclosure contract in the first six months of fy 2011 was \$37,471. He said that he is satisfied with this number, notwithstanding its dip from \$131,509 in fy 2010 (inflated due to a single taxpayer). He said that the average contract size is on a steep upward trend over five years, which may indicate that larger tax firms are becoming comfortable with multi-state voluntary disclosure.

Mr. Shimkin explained the results of a study Nexus staff performed to discover the principal motivations of taxpayers who enter multi-state voluntary disclosure. A great majority reported that they were either unaware of the law (12 out of 30 responses) or

had received erroneous professional advice (7 out of 30 responses). A corporate acquisition motivated 5 out of 30.

An analysis of the data showed a cyclical nature to multi-state voluntary disclosure starts – noticeably higher in January through March.

Mr. Shimkin reviewed other voluntary disclosure data that was provided to committee members in their written materials.

Closed Session

The committee entered closed session. The committee later returned to open session, reported on its closed session activities, and adjourned.