



MINUTES
Nexus Committee Meeting
Hotel Monteleone
New Orleans, Louisiana
November 7, 2007
9:00 a.m. – Noon CDT

Italicized text indicates a vote, committee action, follow up item, or request by a committee member.

Public Session

I. Welcome and Introductions.

The following individuals were in attendance for all or part of the meeting:

Christy Vandevender	AL	Kathy Wicks	MN	Rebecca Abbo	NM
Mike Mason	AL	Lee Baerlocher	MT	Janielle Lipscomb	OR
Danny Walker	AR	Eugene Walborn	MT	Eric Smith	OR
Tammy Sorenson	CO	Joe Huddleston	MTC	Denice Houlette (telephone)	SD
Todd Lard	COST	Thomas Shimkin	MTC	Joan Cagle (telephone)	TN
John Kutsukos	CT	Ted Jutras	MTC	Hermi Nañez	TX
[Mar '07 motion corrected Nov '07 minutes to add Joe Thomas]	[CT]				
Charles Wilson	DC	Cathy Felix	MTC	Rod Marrelli	UT
Chester C. Cook	GA	Gene Marchuk	MTC	Bruce Johnson	UT
Reva Tisdale	ID	Steve Yang	MTC	Frank Hales	UT
Randy Tilley	ID	Dave Nowak	MTC	Shelly Robinson (telephone)	UT
Dan Hall	IL	Ken Beier	MTC	Mike Christensen (telephone)	UT
Richard Cram	KS	Harold Jennings	MTC	Jan Bianchi	WA
Carol Ireland	KS	Jeff Silver	MTC	Karolyn Bishop	WA
Charla Wagner	KS	Les Koenig	MTC	Kathy Oline	WA
Peggy McKinley	LA	Antonio Soto (telephone)	MTC	Rick DeBano	WI
Raymond Jay Frost	LA	Lennie Collins	NC	Andrew Glancy	WV
Kurt Van Brocklin	LA	M. Loftsgard	ND	Rick Scheer	WY
Pam Fair	LA	Lee Evans (telephone)	NJ		
Dan Pavur	LA	Heidi Chowning	NM		
Johnette Martin	LA	Dan Armen	NM		

II. Public Comment Period:

There were no comments from the public.

Mr. Huddleston gave a quick update to the committee on news related to the MTC in general. He said that FIN-48 is a profound force for change in the tax world. The voluntary disclosure program in particular is well positioned to provide states and taxpayers the services they will need as a result of FIN 48.

III. Review of Agenda

After one spelling correction, there was a motion to approve the open minutes of the July 2007 meeting. The motion was seconded, and then approved.

The committee approved the agenda.

IV. Voluntary Disclosure Program – Financial Update

Mr. Shimkin presented the committee with an update on the financial results of the voluntary disclosure program for the 3rd Quarter of 2007: one hundred contracts signed and \$3.2 million revenue collected. For fiscal year 2007 (ending June 30, 2007), Mr. Shimkin told the committee that the Commission had assisted the execution of three hundred seventy-nine contracts and collected revenue of \$11.9 million. Mr. Shimkin stated that the trend over the past four years is clearly upward, despite short-term volatility in the most recent quarter and year. Mr. Shimkin pointed out that the revenue numbers usually increase slightly after being reported due to late-arriving data.

Mary Loftsgard (ND) requested that reports showing recently-opened disclosure cases reveal the names of the participating states.

A request was made by a member of the committee for a breakdown of revenue by tax type in reports

Ms. Lipscomb asked that the number of cases, rather than the percentages, be used in each column of the documents labeled, "Breakdown of Outdated Files" and "Voluntary Disclosure Case Status, 2007", in any future versions.

V. Voluntary Disclosure Program Timeliness Report

In response to questions from committee members about the timeliness of voluntary disclosure processing, Ted Jutras (MTC) explained a study that staff conducted to measure the timeliness of MTC, taxpayer, and state processing of voluntary disclosures. The report displayed a reduction in the number of cases that were inactive for longer than thirty days. As of the time the report was completed on October 28, 2007, the MTC was up to date on all cases.

A member of the committee asked for a breakdown of the actual number of cases on the charts provided rather than percentages.

VI. Nexus Program Survey

Thomas Shimkin of the MTC presented a proposed survey to be sent out to taxpayers upon completion of the voluntary disclosure process. *Committee members made the following comments:*

- Number the questions to make them easier to reference.
- Define “NNP” as “National Nexus Program”.
- Change the language to refer to “company/client” rather than just “client”.
- Substitute “professional” for “pleasant” in a question asking taxpayers to describe the demeanor of the staff with whom they interacted.
- Weight questions and develop a system to derive an overall score.
- Re-word to read, was a response received “when expected” rather than was a response received within an “appropriate” time.

VII. Duration of Nexus Project

Both subcommittees of the Uniformity Committee having declined to join the Nexus Committee in development of guidance regarding the duration of nexus (how long it lasts after contact ceases), *the Nexus Committee voted 15 yeas and none nays to table the project* after Mr. Evans, who had proposed the project, spoke in favor of tabling.

VIII. Voluntary Compliance Program

Thomas Shimkin (MTC) presented information about the Voluntary Compliance Program. The program involved 23 states and produced over \$21 million in combined tax revenue for the states. Thirty-six of the approximately 7,200 individuals and entities that the Commission contacted came forward.

IX. Written Voluntary Disclosure Procedures

Thomas Shimkin presented a draft of written procedures for the voluntary disclosure program. Mr. Thomas proposed that the committee either put together a drafting committee or allow the MTC to proceed with the drafting process. A member of the committee suggested that the written procedures avoid any language that would serve as a deterrent to the taxpayers, such as overly detailed rules that could be viewed as a snare to the unwary. Several members expressed support for having written guidelines. A committee member was concerned about language suspending audit during voluntary disclosure; Mr. Shimkin explained that he would *review the wording to ensure that voluntary disclosure does not interfere with an audit commenced before commencement of the voluntary disclosure process*. Mr. Hall noted that his state revenue department shares some audit responsibility with the another state agency, which may limit the revenue department’s ability to affect an audit of a voluntary disclosant.

By a seconded motion on a 19 to 0 vote, the committee approved the development of written guidelines for voluntary disclosure and directed staff to continue work on it.

The consensus of the committee was that Commission staff should work with a drafting committee to help develop the guidelines. Mr. Thomas called for volunteers and *the following made themselves available*: Rod Marrelli (UT); Christy Vandevender (AL); Danny Walker (AR); Keith Getschel (MN); Deborah Underwood (LA); Reva Tisdale (ID).

Committee members offered the following suggestions regarding language throughout section 12 of the draft agreement:

- §13.1 of the guidelines should distinguish among tax types (a contact disqualifies from participation only with respect to the type of tax the communication addresses).
- §§5.1 and 13.1 define “contact” duplicatively, so one should be deleted.

The committee decided by consensus to postpone further consideration pending a report from the drafting committee.

X. New Business

A committee member suggested that the Commission organize a forum in which states may discuss issues related to economic nexus. The committee did not request follow up action.

Mr. Shimkin followed up on a suggestion from Ms. Lipscomb (OR) at the July 2007 meeting that the Commission organize a forum for states to discuss how to prioritize nexus leads, stating that it is his intention to have such a forum in conjunction with the March 2008 meeting. *The consensus of the committee was that staff should organize such a meeting in conjunction with the March 2008 Nexus Committee meeting.*

The consensus of the committee was that emailing meeting materials in lieu of the prior practice of mailing a binder of printed materials was acceptable.

Chairman Thomas (CT) asked committee members to volunteer candidates to succeed him as chair of the Nexus Committee, as it is his intention to resign the chairmanship before the March 2008 meeting. He noted that the chair of the Commission, presently Secretary Goodwin of New Mexico, will make the appointment.

XI. Closed Session

The committee entered closed session.

XI. Adjournment

The committee returned to open session and upon a seconded and approved motion adjourned.