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**Open Session
Nexus Director's Report**

**Nexus Committee Meeting
San Antonio, Texas
November 19, 2008**

This report briefs members of the Nexus Committee on highlights of the activities, challenges, and achievements of the National Nexus Program to date in fiscal year 2009.

Minutes of July 29, 2008 Meeting

Minutes of the July 29, 2008 open session Nexus Committee meeting will be found in association with this report. Committee members are requested to bring any corrections to the November 19 meeting.

Voluntary Disclosure Information Technology

Secure Email

The Commission's Audit Program has begun use of the Tumbleweed secure email system. I described this system to you in my July 2008 report. The Nexus Program will begin to use it with willing members of the Nexus Committee and state voluntary disclosure contacts in the near future.

Database Renovation

The first phase of renovation of the Commission's voluntary disclosure database is nearly complete. Staff members have demonstration copies installed on their computers and are testing its functions. So far there have been a reasonably small number of glitches that the contractor has agreed to fix. The speed with which the software performs functions has increased many scores fold, making staff more productive. In addition, a number of new reports allow for better management of caseload and identification of overdue actions. Integration with Outlook email allows for more efficient addressing of email to states and taxpayers.

A significant component remaining to be created is the web-based voluntary disclosure application. When built, it will allow an applicant to fill out the Commission's standard application for voluntary disclosure on a web page, save partially complete work and resume at another time, and submit the application to the Commission via the internet. An applicant will be given a password to allow access to his partially completed application. The application will customize itself based on the states and tax types provided by the applicant; questions asked by only certain states will not appear on the application unless the applicant has selected a state that requires it.

Phase II, if undertaken, will allow states and taxpayers to access the voluntary disclosure database directly and to perform a number of functions there without intervention from Commission staff.

Voluntary Disclosure Revenue

Revenue from the National Nexus Program's voluntary disclosure program continues to zig and zag its way along a pleasing upward trend. All amounts below include only payments for back liability that the Commission received and forwarded to the states. Insignificant amounts of incidental fees, interest or penalty may be included if received at the end of the voluntary disclosure process. They include absolutely no revenue resulting from anticipated future filings.

To date in fiscal year 2009 (as of November 10) the National Nexus Program:

- Executed contracts with 33 taxpayers, which resulted in 125 separate contracts with states
- Collected back tax of **\$2,875,327** (likely to rise slightly due to late-arriving data)
- Opened 28 new voluntary disclosure files, representing 201 potential state contracts.

The average taxpayer applied to just over seven states.

In calendar year 2008 to date (January through October) the National Nexus Program:

- Executed contracts with 76 taxpayers, which resulted in 340 state contracts
- Collected back tax of **\$13,008,439** (likely to rise slightly due to late-arriving data)
- Opened 67 new voluntary disclosure files, representing 540 potential state contracts

For comparison purposes, the program collected the following amounts for these fiscal years to date:

- FY to date 2008: **\$1.1 million**
- FY to date 2007: **\$6.1 million**
- FY to date 2006: **\$4.7 million**

Numbers are rounded.

For comparison purposes, the January – October period produced the following amounts of revenue in the indicated years:

- CY to date 2007: **\$7.9 million**
- CY to date 2006: **\$11.9 million**
- CY to date 2005: **\$4.1 million**
- CY to date 2004: **\$4.2 million**
- CY to date 2003: **\$7.1 million**

Numbers are rounded.

Comparing only numbers of applicants (*Files*), we are on track to exceed the number of Files opened in the previous calendar year:

- Jan. – October 2008: 67 Files opened
- Calendar year 2007: 68 Files opened.

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- Calendar year 2006: 76 Files opened.
- Calendar year 2005: 74 Files opened.
- Calendar year 2004: 73 Files opened.
- Calendar year 2003: 75 Files opened
- Calendar year 2002: 45 Files opened
- Calendar year 2001: 48 Files opened

Voluntary Disclosure on Commission’s website

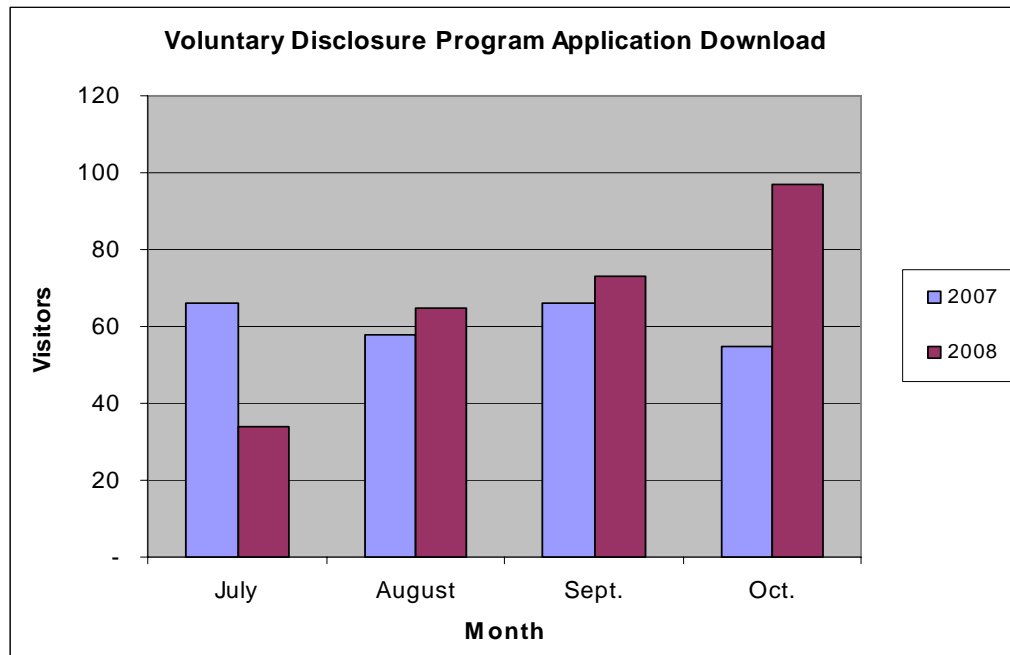
The Commission’s web site continues to be an important source of information for taxpayers about the multi-state voluntary disclosure program and the most common way applicants acquire an application form. We formerly offered applications in either Word or PDF format, and now offer them only in PDF. In the upcoming months we will implement an online application.

Nexus Most Popular Page		July	Aug.	Sept.	Oct.	Total
1	About the Nexus Program	655	514	522	650	2,341
2	Voluntary Disclosure Program	365	321	313	417	1,416
3	The Nexus School	194	137	159	184	674
4	Multistate VDP Participating States	99	89	108	182	478
5	Multistate VDP Member States	122	105	89	123	439

The “About Nexus Program” is the most popular page of the Nexus Committee web pages, with a total of 2,341 visitors from July 2008 through October 2008. Last year there were 2,008 visitors during the 2nd FY quarter, which is an increase of 333 visitors for the quarter. The Voluntary Disclosure Program webpage follows second with 1,416 visitors compared to last year’s 1,357.

Key notes:

- The top search phrase “nexus” ranked as #10 with 27 searches from search engines such as Google, Yahoo and MSN in the month of October.
- “Nexus” is the top search keyword ranked as #15 with the Multistate Tax Commission searches.



Nexus Schools

The Multistate Tax Commission's Nexus School is a two day training event where students are taught state tax jurisdictional issues, or "nexus." Nexus Schools scheduled for FY 2009:

- Boise, Idaho - October 21-22, 2008 (passed)
- Olympia, Washington, December 16-17, 2008
- Little Rock, Arkansas May 18-19, 2009

Contact Mr. Antonio Soto of the Commission's training staff for registration information or information about the benefits of hosting a nexus school.

Nexus staff is in the process of updating and improving the exercise workbooks. These will be ready for the Little Rock school.

Voluntary Disclosure Guidelines

The voluntary disclosure guidelines project is an effort of states and Commission staff to develop a set of written guidelines to govern the voluntary disclosure process. The private sector has been invited to offer comments but has not yet done so. I have provided a copy to COST. It is hoped that states will adopt these guidelines as their own with respect to multi-state voluntary disclosures (they would not affect a state's own voluntary disclosure program).

At its July 2008 meeting the Nexus Committee referred the guidelines to a drafting group for further consideration. The drafting group met once and produced a draft for the Nexus Committee's consideration, which is enclosed with this report. The marked up copy shows the committees changes. I sent this markup to Nexus Committee members several weeks ago with a request that you study it and bring your state's comments to the November 19 Nexus Committee meeting. It is very important that committee members study this document in advance of the meeting and arrive prepared for mark up

A Few Nexus Developments

- Barnes & Noble and the BOE reached a use tax settlement on May 29 with the California State Board of Equalization. The company agreed to pay \$9 million to resolve the long-running tax dispute, according to the company's quarterly report filed with the Securities and Exchange Commission on September 11. The company had maintained that its remote affiliate was not required to collect use tax on sales into California because the in-state Barnes & Noble stores were not its representatives for nexus purposes.
- New York recently memorialized in statute what had been an informal voluntary disclosure program that operated without benefit of authorizing statute or regulation. There are three major changes: 1. application is via a web page, 2. applicants must identify themselves at the beginning of the process (previously they applied anonymously), and 3. the lookback periods are rigidly set forth, varying depending on the nature of the taxpayer's potential noncompliance.