



MULTISTATE TAX COMMISSION

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To: The Commission
From: Bryan Kelly, Nexus Committee Chair
Re: Nexus Committee Activities in FY 2022
Date: August 3, 2022

Nexus Committee Report for FY 2022

The Nexus Program results for FY 2022 (July 1, 2021 through June 30, 2022) are provided below.

- Nexus states' collections: \$28,337,506 (\$20,269,587 FY 2021)
- Nexus states' executed agreements: 493 (411 FY 2021)
- Nexus states' average contract value: \$57,480 (FY 2020: \$49,318)

The above amounts include checks received by the Commission or amounts paid by the taxpayer directly to the states and reported to the Commission. Interest on back tax paid and the value of a new taxpayer are not included. Applications continue to increase in the post-*Wayfair* era. The Commission received applications from 192 taxpayers in calendar year 2021. For calendar year 2022 to date (as of June 30, 2022), 94 taxpayers have so far applied. Most of the applications are based on sales/use tax economic nexus.

The Nexus Committee met virtually on July 27, 2021, in person on November 10, 2021 in Alexandria, Virginia, on April 21, 2022 in Albuquerque, New Mexico, and on August 1, 2022 in Anchorage, Alaska.

The Committee considered at the July 27, 2021 meeting: Richard Cram presented an extensive discussion of recent nexus law developments for income tax and sales/use tax. The open session was well attended with 162 attendees, and the closed session also had strong participation with 63 attendees.

The Committee considered at the November 10, 2021 meeting: Richard Cram gave a presentation on the new online voluntary disclosure application being used in the Multistate Voluntary Disclosure Program (MVDP). Richard also explained that following *Wayfair* and states' implementation of sales/use tax economic nexus laws, MVDP voluntary disclosure agreements had used as the lookback period start date for taxpayers with only sales/use tax economic nexus the date that the state implemented sales/use tax economic nexus. MTC staff will phase out use of the state implementation date for sales/use tax economic nexus for the start of the lookback period when that date would be prior to the state's normal lookback period, which generally ranges between three to five prior years. The open session was well attended with 114 attendees, 38 in person and 76 virtual. The closed session had 70 attendees, 36 in person and 34 virtual.

The Committee considered at the April 21, 2022 meeting: the results of the survey of states participating in the Nexus Program concerning whether any change should be made to the current policy in the Procedures for the MTC Multistate Voluntary Disclosure Program (MVDP) on consideration of applications indicating that the applicant had any prior contact with the state. Of the 24 states responding, 16 indicated that they would not consider an application indicating such prior contact, 1 state indicated that it would, and 8 states indicated they would take a case-by-case approach to such an application. Nineteen states indicated that they would prefer that current policy be retained, and 5 states indicated that they would like to see the current policy changed. After discussion, Christy Vandevender (AL) stated that unless there were any objections to the suggestion by Frank Hales, the current policy in the MVDP Procedures will be retained, making an application ineligible for the MVDP if the applicant has had prior contact with the state. No objections were raised. The open session was well attended with 148 attendees, 63 in person and 85 virtual. The closed session had 92 attendees, 50 in person and 42 virtual.

Committee Leadership Changes

Jayne Kulberg (WI) has retired from the Wisconsin Department of Revenue and as our Vice Chair, effective at the end of March 2022. We appreciate her excellent and longstanding service to the Committee, and wish her well.

Christy Vandevender (AL) stepped down as Nexus Committee Chair on May 11, 2022. We will most certainly miss Christy's outstanding leadership, enthusiasm and involvement in the Committee's activities, and we deeply appreciate all she has done as Chair for the past several years.

Bryan Kelly (WA), who had volunteered as Vice Chair following Jayne's retirement, has now assumed the duties of the Chair. We welcome Bryan to that new position and look forward to his leadership of the Committee.

Robert Kindred (DC) has volunteered to assume the duties of Vice Chair as of May 20, 2022, and we welcome Robert's involvement and contributions in that capacity.