



MULTISTATE TAX COMMISSION

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To: The Commission
From: Christy Vandevender, Nexus Committee Chair
Re: Nexus Committee Activities FY 2021
Date: August 4, 2021

Nexus Committee Report for FY 2021

The Nexus Program FY 2021 results (July 1, 2020 through June 30, 2021) are provided below.

- Nexus states' collections: \$20,269,587 (\$21,551,287 FY 2020)
- Nexus states' executed agreements: 411 (544 FY 2020)
- Nexus states' average contract value: \$49,318 (FY 2020: \$39,616)

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 296 taxpayers in calendar year 2020. For calendar year 2021 to date, 118 taxpayers have so far applied. Most of the applications are based on sales/use tax economic nexus.

The Nexus Committee met virtually on July 28, 2020, November 16, 2020, April 20, 2021 and July 27, 2021.

The Committee considered and approved at the July 28, 2020 meeting:

(1) clarification to the state voluntary disclosure lookback period chart posted on the MTC website to indicate that for taxpayers coming forward for voluntary disclosure that have only sales/use tax economic nexus and no physical presence in the state, the state's sales/use tax lookback period would commence on the date that the state implemented sales/use tax economic nexus; and (2) an amendment to the Standard Agreement to accommodate states encouraging taxpayers to submit back tax returns and payments electronically directly to the state. Multistate voluntary disclosure

applications continue to steadily increase since *Wayfair*, primarily for sales/use tax economic nexus, and back tax collections were \$21,551,287 for FY 2020, a substantial increase over FY 2019 results (\$14,695,429). The meeting was well attended with 92 attendees.

The Committee considered at the November 16, 2020 meeting: (1) tracking of voluntary disclosure case status and tax payments; (2) updates to the Uniform Sales and Use Tax Resale Certificate – Multijurisdiction Form to reflect the *Wayfair* decision and the states' subsequent economic nexus laws; and (3) updating language in our standard voluntary disclosure agreement concerning electronic signatures. Regarding tracking of voluntary disclosure cases and tax payments, participating states will send a quarterly report to Richard Cram, Nexus Program Director, indicating the MTC #'s of voluntary disclosure matters for which the state has received necessary signed documents, returns and back tax payments, covering the time period July 1, 2020 forward. The Nexus Committee discussed updates to the MTC's Uniform Sales & Use Tax Exemption/Resale Certificate – Multijurisdiction form, which it has made available to taxpayers for decades. It is a simple form that a seller registered in one state may use to claim the resale or ingredient/component part exemption when purchasing inventory tax-free from a supplier located in another state. The seller would not be required to register in the other state if it did not have nexus. The MTC is now updating the form to reflect the *Wayfair* decision and states' new sales and use tax economic nexus laws. The proposed draft of the revised form was circulated to the Committee. The Nexus Program Director is requesting responses and revisions from the participating states by November 30th, 2020. Regarding electronic signatures on voluntary disclosure agreements, the current language in the standard agreement provides that digital images of signatures can be considered as originals in executed the agreement. This would include a pdf copy of a handwritten (wet) signature. The Committee decided that this provision should be updated to also permit digital signatures via such tools as DocuSign, which arguably would be even more secure than a pdf copy of a signature. Richard will be circulating updated language to that effect to the Committee for consideration. The open session was well attended with 105 attendees, and the closed session also had good participation with 65 attendees.

The Committee considered at the April 20, 2021 meeting: (1) Christie Comanita, Director of Research and State Compliance, and Craig Johnson, Executive Director, Streamlined Sales Tax Governing Board (SSTGB), gave a presentation on the progress that the work group of the State and Local Advisory Council (SLAC) of SSTGB has made in developing, along with the Business Advisory Council (BAC), a disclosed practices matrix that its member states will complete, in order to provide

guidance to remote sellers, marketplace facilitators, and marketplace sellers in the implementation of sales/use tax economic nexus laws and marketplace facilitator tax collection laws recently enacted. Christi and Craig encouraged non-SST states to consider providing their information for publication as part of this matrix. (2) The Committee adopted an amendment to Paragraph 5.1 of the Standard Agreement to add language expressly requiring the taxpayer to comply with the state's instructions concerning registration, filing returns/spreadsheets, and back tax payment. The purpose of the amendment is to clarify that the taxpayer not only must comply with the provisions of the agreement, such as registering with the state, filing returns/spreadsheets and paying back taxes, but must also comply with the state's specific instructions concerning those tasks. (3) The Committee approved by unanimous roll call vote the proposed draft Nexus Committee Charter, prepared by General Counsel Nancy Prosser and Deputy General Counsel Lila Disque for forwarding to the Executive Committee. The open session was well attended with 106 attendees, and the closed session also had good participation with 54 attendees.