



MINUTES
Nexus Committee Meeting
Tucson, Arizona
March 13, 2008
9:30 a.m. – Noon MST

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

Public Session

I. Welcome and Introductions.

Chairman Lennie Collins (NC) convened the meeting. The following persons attended all or part:

NAME	AFFILIATION	NAME	AFFILIATION
1. Chris Sherlock	AL	Antonio Soto (T)	MTC
2. Christy Vandevender (T)	AL	Diane Simon-Queen (T)	MTC
3. Ken Ditmer	AK	Jeff Silver	MTC
4. Danny Walker (T)	AR	Lennie Collins	NC
5. Tamra Fucci (T)	AZ	Darrell Engen	ND
6. Todd Lard	COST	Mary Loftsgard	ND
7. Beth Cooley	COST	Lee Evans (T)	NJ
8. John Kutsukos	CT	Charles Langston	NM
9. Joe Thomas	CT	David M Fergeson	NM
10. Charles Wilson	DC	Rebecca Abbo	NM
11. Nancy Tucker	DC	Janielle Lipscomb	OR
12. Anita DeGumbia	GA	Eric Smith	OR
13. Reva Tisdale	ID	John Rogers (T)	SC
14. Randy Tilley	ID	Denice Houlette (T)	SD
15. John Pydyszewski	J & J	Brandon Seibel	SD
16. Mike Boekhaus	KS	Joan Cagle (T)	TN
17. Peggy McKinley	LA	Hermi Nañez	TX
18. Debbie Underwood	LA	Shelley Robinson (T)	UT
19. Keith Getschel	MN	Mike Christensen (T)	UT
20. Lee Baerlocher	MT	Craig Sandberg	UT
21. Eugene Walborn	MT	Rod Marrelli	UT
22. Thomas Shimkin	MTC	Michael Grundhoffer	WA
23. Ted Jutras	MTC	Rick DeBano	WI
24. Mike Bontrager	MTC	Craig Griffith	WV
25. Steve Yang	MTC	Shanda Rice (T)	WY
26. Ken Beier	MTC		

“(T)” after a name means that the person attended by telephone.

II. Public Comment Period:

There were no comments from the public.

III. Review of Agenda & Minutes

The committee approved the open-session minutes of the November 2007 meeting as amended to note the attendance of Chairman Joe Thomas.

The committee approved the agenda.

IV. Voluntary Disclosure Program – Financial Update

Nexus Director Thomas Shimkin (MTC) presented the committee with an update on the financial results of the voluntary disclosure program. In the fourth quarter of 2007 the Commission executed eighty-five contracts and collected \$3.17 million in revenue on behalf of member states, he said. For calendar year 2007 Mr. Shimkin told the committee that the Commission had executed four hundred thirty-seven contracts and collected revenue of \$9.98 million. Mr. Shimkin stated that the trend over the past four years is upward, despite short-term volatility in the most recent quarter and year.

Mary Loftsgard (ND) requested a breakdown of revenue by tax type in reports. Mr. Shimkin explained that when complete the Commission's renovated software to manage voluntary disclosures will permit production of such reports.

V. Voluntary Compliance Program

Mr. Shimkin presented information about the Voluntary Compliance Program. The program involved 23 states and produced over \$21 million in combined tax revenue for the participating states. Thirty-six of the approximately 7,200 individuals and entities that the Commission contacted came forward. The program ended in October. All states now have their lists of "invited participants." States may choose to make further inquiry of those taxpayers invited to participate who declined.

VI. Nexus School

Antonio Soto (MTC) announced that the next Nexus School will be held on April 8-9, 2008 in Baltimore, Maryland. The Commission plans to hold a Nexus School in Omaha, Nebraska September 15 - 16, and one in Boise, Idaho October 21-22, 2008.

VII. Tumbleweed Secure Messenger

Chris Lane (MTC) gave a PowerPoint presentation on the Tumbleweed Secure Messenger software that the MTC will deploy as part of the Secure Communications Plan. Mr. Lane said that all Commission committees and divisions will likely find a use for the software. Among other capabilities, it will track notification of e-mail delivery and analyze e-mail content to identify confidential information and automatically encrypt and protect it. The user will need no special software.

VIII. Voluntary Disclosure Information System

Mr. Shimkin spoke about the National Nexus Program's project to improve its voluntary disclosure software. The project has two phases. The first seeks to replace

the current database and application that MTC staff uses for handling voluntary disclosure cases while also expanding on the application's capabilities.

Mr. Shimkin explained that the current software was designed by a now-former Commission staff member in Microsoft Access 2000, a platform which has been extended beyond its capacity as the number of voluntary disclosures has grown. He said that the Commission does not have the resources to maintain and further develop this software. The Commission is currently reviewing bids for the first phase of the project, which will migrate voluntary disclosure records into a software program that can be well supported, plus make some design improvements that will allow improved management and reporting functions and speedier processing in the short term.

Mr. Shimkin asked for committee input regarding the second phase of the project. He noted that no firm plans have been made to go forward with the second phase. The second phase, if undertaken, would create a web-based interface allowing states, taxpayers, and MTC staff to login to secure, individual accounts. Taxpayers would be able to apply for voluntary disclosure, review contracts, track the status of their cases, and securely and anonymously communicate directly with states or MTC staff through this web application. State employees would be able to review and track all cases related to their state, as well as communicate directly and securely with taxpayers and MTC staff.

Rod Marrelli (UT) asked whether the project would increase dues. Mr. Shimkin responded that it would not.

Mr. Collins asked whether the Technology Committee reviewed vendor proposals for Phase I and II or for Phase I only. Mr. Jutras (MTC) responded that the proceedings were focused on bids for Phase I. He said that vendors had been asked to submit only very general estimates of cost for Phase II.

IX. Written Voluntary Disclosure Guidelines

Mr. Shimkin presented a revised draft of written guidelines for the Voluntary Disclosure Program. [Since the November meeting the following Committee members served on a drafting committee to modify the first draft: Shelley Robinson (UT); Hermi Nañez (TX); Rod Marrelli (UT); Christy Vandevender (AL); Danny Walker (AR); Keith Getschel (MN); Deborah Underwood (LA); Kathy Oline (WA); and Michael Gorczycki (NJ); Thomas Shimkin (MTC); and Michelle Lewis (MTC).]

Nexus Committee members made the following comments and suggestions:

- §4: Joe Thomas (CT) asked whether the document would bind the states. Mr. Shimkin responded that states would be asked to apply the policies in the Guidelines only with respect to voluntary disclosures originating with the Commission.
- §4: *Janielle Lipscomb (OR) suggested that the language "do not necessarily apply" be changed to "do not apply."* After some discussion the Committee agreed. The text would read: "These procedures do not necessarily apply to a state's single-state voluntary disclosure program."
- §5: Ms. Tisdale noted that a reference to §13.1 should be corrected to instead reference §15.1

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- §6: After a discussion initiated by Hermi Nañez (TX), *the Committee voted unanimously to strike §6*. This section requires the Commission to accept disclosure applications without regard to the amount of tax estimated to be due.
- §10: *After discussion, the committee consensus was to keep this section as is except with respect to a collected fiduciary tax*, in which case money mistakenly given to the Commission will be forwarded to the state. §10 allows a taxpayer who mistakenly sends the Commission a return or payment to require the Commission to return the return or payment without notice to the state. [This section has become §9 due to striking former §6]
- §14: *Ms. Tisdale stated her view that “suspend” an audit should be changed to, “not begin” an audit*. The text would be revised thus:

“Protection from audit means that, upon receipt of notice per §15.2, NNP and participating states shall ~~suspend~~ not begin with respect to a taxpayer so protected, all inquiry, audit and other enforcement activity (except criminal enforcement activity) with respect to that taxpayer and the type of tax at issue, pending that taxpayer’s timely and proper completion of its MVD.”

The committee postponed further consideration of the proposed guidelines until its July 2008 meeting to ensure that it attended to all agenda items before adjournment. Mr. Shimkin said that he would *incorporate committee comments* and distribute a revised version well in advance of the July meeting. The consensus of the committee was to *further study the marked up draft and to attend the July meeting prepared to continue the markup*.

Mr. Shimkin solicited input from a representative of COST, who commented that he is waiting for feedback from COST members, and that he will provide a written statement in advance of the summer meeting. Mr. Marrelli asked whether COST members need or want guidelines. The representative replied that he would confirm with his members but that his initial view is that they do want written guidelines.

X. New Business

There was no new business.

XI. Closed Session

--- The committee entered closed session. ---

XII. Adjournment

--- The committee returned to open session. ---

After a vote, *the Committee expressed its preference that the winter 2009 committee meeting be held in Charleston, South Carolina*, with eleven members voting for that city. The second and third highest vote-getters respectively were San Diego, California (8 votes) and Savannah, Georgia (6 votes).