



MULTISTATE TAX COMMISSION

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**National Nexus Program (NNP) Director's Report for 3rd Quarter, FY 2018  
Update on Online Marketplace Seller Voluntary Disclosure Initiative**

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Multistate Voluntary Disclosure Program (MVDP)

This Third Quarter FY 2018 results (July 1, 2017, through March 31, 2018) are provided below.

- Nexus states' collections:           \$ 8,858,266   (\$19,664,097 in all FY 2017)
- Nexus states' executed agreements:   2,781           (431 in all FY 2017)
- Nexus states' average contract value:   \$ 3,185           (FY 2017: \$45,624)

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. The number of executed agreements includes those from the online marketplace seller voluntary disclosure initiative, most of which involved waiver of back tax liability, as well as those from the ongoing Multistate Voluntary Disclosure Program, which do require payment of back taxes for the states' lookback periods. This accounts for the much higher number of executed agreements and the much lower average contract value.

Online Marketplace Seller Voluntary Disclosure Initiative

At its July 31, 2017 meeting in Louisville, the Nexus Committee approved moving forward with the online marketplace seller voluntary disclosure initiative. A total of 25 states, including D.C., are participating in the initiative. Most of the

participating states offered waiver of back tax liability for both sales/use tax and income/franchise tax to online marketplace sellers with nexus as a result of inventory or other nexus-creating activity by the marketplace facilitator on behalf of the seller, if the seller registered to collect sales/use tax and file income tax returns prospectively. Four of the participating states (Colorado, Massachusetts, Minnesota, and Wisconsin) required lookback periods. The initial application period was set for August 17 to October 17, 2017, with sellers to be registered to collect by December 1, 2017. On October 11, the Nexus Committee conducted an emergency meeting by teleconference to address requests to extend the deadlines. The Committee extended the application deadline to November 1 and changed the registration deadline (date seller needs to send to MTC staff the signed agreement and the state's completed registration forms or written confirmation that the seller has registered online, if permitted) to the later of December 1, 2017, or 30 days after the seller receives notice that the state has signed the voluntary disclosure agreement. By the end of the November 1 application period, voluntary disclosure applications from a total of approximately 852 online marketplace sellers had been received.

On January 4, 2018, the Nexus Committee met by telephone and authorized MTC staff to begin notifying online marketplace sellers receiving state-signed agreements that they could send the executed agreements and registration forms (along with returns and payments if required) alternatively either directly to the states or to MTC staff. This was intended to speed up the registration for taxpayers and reduce processing time. The initiative is now in the final stages of completion.

Attached is a spreadsheet containing an estimate of the annual potential future revenue attributable to agreements entered into as a result of the online marketplace seller voluntary disclosure initiative. Based on the back tax liability estimates provided in the applications of taxpayers executing agreements and registering with the states under the initiative, it should result in an estimated \$51,058,614 in annual potential future revenue for the participating states.

There were 209 online marketplace sellers submitting applications that reported estimated back tax liability for the prior 4 tax years of \$100,000 or more, and of this group, 154 of them, or 73.7%, signed agreements. These 154 online marketplace sellers accounted for 95.7% of the annual potential future revenue. There were 238 online marketplace sellers submitting applications that reported estimated back tax liability for the prior 4 tax years of at least \$10,000 but less than \$100,000. Of this group, 153 of them, or 64.2%, signed agreements. These 153 online marketplace sellers accounted for 4.3% of the annual potential future revenue. Online marketplace

sellers signing agreements and reporting less than \$10,000 in back tax liability estimates for the prior 4 tax years were not included in the estimate. A total of 405 online marketplace sellers submitting applications reported back tax liability of less than \$10,000 for the prior 4 tax years, and of those, 185 signed agreements with at least one state, for a sign-up percentage of 45.7%. Of the 852 total online marketplace sellers submitting applications, 492 of them signed agreements with at least one state, for a total sign-up percentage of 57.7%

Also attached is a spreadsheet showing the total number of applications received during the application period for the online marketplace seller voluntary disclosure initiative by states participating in that initiative, the number of those that were approved by the states, and the number that ended up as taxpayer-signed agreements. In addition to the 852 online marketplace sellers submitting applications during this time period, another 50 taxpayers submitted application under the ongoing Multistate Voluntary Disclosure Program. Those applications are also included in this spreadsheet. These results show that 45.7% of the applications submitted ended up as taxpayer-signed agreements, and 31.1% of the applications submitted did not get past the initial processing stage, because the application was incomplete and could not be processed, or the taxpayer failed to approve the draft agreements to be sent to the states. Of the applications and agreements approved by the states, 66.4% of them ended up as taxpayer-signed agreements.

For states that had lookback periods participating in the initiative (Colorado—4 years for income/franchise tax, Massachusetts and Minnesota—3 years for sales/use tax and income/franchise tax, Wisconsin—from January 1, 2015 for sales/use tax and income/franchise tax), these are the total amount of back taxes collected from online marketplace seller agreements (based on checks received by MTC staff and forwarded to the states):

State	sales/use tax	income/franchise tax
Colorado	\$795	\$1,765
Massachusetts	—not available—taxpayers were required to pay the state online	
Minnesota	\$291,946	\$10,810
Wisconsin	\$451,518	\$4,995

These statistics may be incomplete, because commencing mid-January, 2018, MTC staff advised online marketplace sellers signing agreements that they could send the agreements, registration forms, back tax returns and payments (if required) alternatively either directly to the states or to MTC staff.

### Membership

There are currently thirty-nine participating states (including the District of Columbia) in the NNP, with Rhode Island having most recently joined effective October 1, 2017. Commission staff continues to reach out to non-member states.

### Outreach

Richard Cram gave a presentation on the online marketplace seller voluntary disclosure initiative at the NASBO annual meeting in Alexandria, Virginia on October 6, 2017. Richard participated as a panelist in The Knowledge Group webinar presentation entitled "Sales and Use Tax Economic Nexus: Tips and Strategies to Ensure Compliance in the Ever-Complex Economy" on October 17, 2017. Richard gave a presentation on nexus law developments to the Cornell SALT Group in New York City on November 3, 2017. Richard presented as a panelist at the FTA Compliance Workshop in New Orleans on February 28, 2018 (*What Happened When the Nation's Marketplace Sellers Were Offered an Incentive to Register*) and also presented as a panelist at the ABA/IPT Advanced Sales and Use Tax Seminar (*MTC VDA Program*) in New Orleans, Louisiana on March 21, 2018.

Staff continues to urge states to put a link to the NNP on their voluntary disclosure web pages.

### Nexus Schools

NNP staff co-taught a Nexus School in Atlanta, Georgia on September 20-21, 2017, hosted by the Georgia Department of Revenue. Please let a member of the Commission staff know if your state would like to host a Nexus School.

### Amnesties

The NNP posts on its web page a list of upcoming and current state tax amnesties. Please inform NNP staff if you would like the Commission to post your state's amnesty.

### Staffing

The Program presently has four permanent full-time staff members: Richard Cram, Director, Diane Simon-Queen, Voluntary Disclosure Program Manager, Michelle Lewis, Paralegal, and James Lee, hired on March 2, 2018 as Program Specialist. From October 2017 through late February 2018, Renee Lee, Paralegal, Thomas Emberger, temporary employee, and James Lee, then a temporary employee, worked full-time for the Program on the online marketplace seller voluntary disclosure initiative. Nianci Lyu, temporary employee, worked full-time on the initiative during October and November 2017. Angie Molina, a senior at Georgetown University, worked part-time for the Nexus Program beginning July 5, 2017, ending in October 2017.

Richard Cram  
Director, National Nexus Program

3/28/2018

Prior Yr Back Tax Liability Estimates for Online Marketplace Sellers Entering into Agreements  
 With Prior 4-Yr Back Tax Liability Estimates of \$10,000 or More

State	Prior Yr S/U Tax Liability Est.	Prior Yr I/F Liability Est.	TOTAL	# Agreements
AL	\$1,139,337	\$4,453	\$1,143,790	13
AR	\$128,525	\$1,184	\$129,709	14
CO	\$1,662,676	\$145,415	\$1,808,091	31
CT	\$2,804,592	\$330,458	\$3,135,050	126
DC	\$11,981	\$12,654	\$24,635	5
FL	\$7,884,949	\$422,162	\$8,307,111	217
IA	\$642,879	\$309,003	\$951,882	14
ID	\$535,697	\$31,826	\$567,523	6
KS	\$1,610,596	\$145,242	\$1,755,838	173
KY	\$1,537,313	\$260,968	\$1,798,281	193
LA	\$1,064,032	\$143,148	\$1,207,180	15
MA	\$120,548	\$164,776	\$285,324	22
MIN	\$139,267	\$170,235	\$309,502	24
MO	\$1,415,384	\$247,007	\$1,662,391	13
NE	\$1,116,373	\$242,789	\$1,359,162	13
NC	\$3,166,997	\$486,182	\$3,653,179	68
NJ	\$8,349,269	\$1,577,621	\$9,926,890	210
OK	\$726,480	\$137,898	\$864,378	7
RI	\$50,567	\$430	\$50,997	4
SD	\$286,641	\$0	\$286,641	11
TN	\$1,419,127	\$601,820	\$2,020,947	144
TX	\$7,833,669	\$875,397	\$8,709,066	226
UT	\$482,134	\$1,912	\$484,046	20
VT	\$36,898	\$34,705	\$71,603	12
WI	\$180,244	\$365,148	\$545,392	29
TOTAL	\$44,346,181	\$6,712,433	\$51,058,614	1610

4/1/2018

## Status of Applications Received by MTC 8/17/17 - 11/1/17

State	Apps Rec'd	Signed Draft Sent to Taxpayer	Final: Cert. Agree Sent
AL	84	34	24
AR	63	40	28
CO	143	94	54
CT	346	269	206
DC	57	30	15
FL	630	483	361
IA	61	40	22
ID	57	23	10
KS	435	342	268
KY	518	398	298
LA	78	55	27
MA	223	115	46
MN	339	191	75
MO	99	59	25
NE	60	33	21
NC	192	145	106
NJ	607	464	339
OK	62	29	12
RI	53	32	17
SD	52	32	16
TN	564	356	223
TX	676	507	374
UT	78	42	25
VT	66	42	22
WI	321	184	69
Total	5864	4039	2683