MULTISTATE TAX COMMISSION

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Nexus Program Director's Update July 27, 2026 on Nexus Law Developments Since April 22, 2026

Rulings or Administrative Actions

Colorado

The Department of Revenue issued GIL 26-001 dated June 9, 2026 stating that a wholesaler without a state-issued sales tax license may not use the Multistate Tax Commission's Uniform Sales & Use Tax Resale Certificate to claim an exemption on purchases made in Colorado. The attestation on this form begins, "I certify that [the business]...is registered for sales/use tax with the below listed states and cities within which Seller would deliver purchases to Buyer…" By signing this form, the business' representative is attesting that they hold a valid sales tax license in those jurisdictions. If the business does not have a valid sales tax license in those jurisdictions, it cannot make the attestation and would not be eligible to use the Multistate Tax Commission's certificate.

Illinois

The Department has published Information Bulletin FY 2026-28 dated June 2026 entitled "2026 Illinois Remote Retailers Tax Amnesty Program" to provide notice that the Program will run from August 1, 2026, through October 31, 2026 and will allow qualifying remote retailers (no physical presence in Illinois, sell tangible personal property and have unpaid sales tax liability on sales made from January 1, 2021 to June 30, 2026 to pay eligible sales tax liabilities with related penalties and interest waived.

The Department has published Information Bulletin FY 2026-33 dated June 2026 entitled "Hotel Operator's Occupation Tax Changes, Effective July 1, 2026," stating that as of that date, the 200-transaction threshold for requiring re-renters of hotel rooms to collect and pay hotel operators' occupation tax will be removed. If the renting, leasing, or letting of a hotel room is done through a hotel marketplace facilitator that has met the $100,000 tax remittance threshold, then the hotel marketplace facilitator is the hotel operator and must register for a Hotel Operators' Occupation Tax Account with the Department. "Hotel marketplace facilitator" includes re-renters of hotel rooms and hosting platforms for short-term rentals who otherwise meet the definition of "hotel marketplace facilitator."

Indiana
The Department of Revenue published News Release dated May 18, 2026 entitled "Indiana DOR Launches Amnesty Eligibility Tool," to provide information on Tax Amnesty 2026, offering a limited-time opportunity for taxpayers to pay past due, eligible taxes and receive a waiver on penalties, interest, and collection fees. The timeframe is July 15 through Sept. 9, 2026, and it applies to existing tax liabilities for all listed tax types managed by the Department or Motor Carrier Services for periods prior to Jan. 1, 2024.

New Jersey
The Division of Taxation has published TB-108(R) dated June 5, 2026 entitled "Nexus for Corporation Business Tax for Privilege Periods Ending on or after July 31, 2023" to provide guidance pursuant to sections 6 through 10 of P.L.1945, c.162 (C.54:10A-6 through C.45:10A-10), on activities that will create corporation business tax nexus, including "bright-line economic nexus: receipts from sources within this State, in excess of $100,000 during the corporation's fiscal or calendar year; or 200 or more separate transactions delivered to customers in this State during the corporation's fiscal or calendar year.

Washington
The Department has published on its website "International Remote Seller Voluntary Disclosure Program Frequently Asked Questions" to provide guidance on this program, which ran from February 1 to May 31, 2026.

Legislation
California
Governor Newsom has signed the California budget bill, which includes a measure extending the sales and use tax to sales of electronically delivered pre-written software beginning next year, but retains the current tax exemption for custom software. Michael Bologna, "California's Newsom Signs Software, Other Taxes in 2027 Budget," *Bloomberg Law News* (July 1, 2026).

Illinois
Governor Pritzker has signed SB 3019, which includes new taxes on targeted digital advertising, prediction markets, investors in cryptocurrency, and social media platforms. Michael J. Bologna, "Illinois Governor Approves Taxes on Digital Ads, Social Media," *Bloomberg Law News* (June 18, 2026). Kalshi has filed suit against Illinois in federal court, challenging the prediction market tax as illegal, in that the

Commodity Futures Trading Commission (CFTC) has exclusive jurisdiction over prediction markets. The CFTC has also filed suit against Illinois and Kentucky, challenging the legality of the prediction markets tax enacted by both states. Emily Hollingsworth, "Kalshi Sues Illinois to Nullify New Prediction Market Tax Law," *Tax Notes State* (Jul. 1, 2026).

Kentucky
The Kentucky Legislature has enacted HB 757, which amends KRS 139.340 effective August 1, 2026 to redefine the sales and use tax nexus standard for remote retailers and marketplace providers to include a sales volume threshold only, dropping 200 transactions alternative threshold.

North Carolina
North Carolina is joining Illinois and Kentucky by imposing a new tax on prediction markets in the budget bill, SB 257, imposing a 6% levy on net trading fee revenue of companies that run such trading platforms. Daniel Moore, "North Carolina's Stein OKs Taxes on Prediction Markets," The bill allows providers licensed and regulated by the Commodity Futures Trading Commission to operate in its boundaries. This could prevent its tax from coming under federal scrutiny as Illinois and Kentucky taxes have. *Bloomberg Law News* (July 8, 2026). Peyton Rhodes, "Prediction Market Approval Offers Shield for North Carolina Tax," *Bloomberg Law News* (July 14, 2026)

Federal
In June, Congressman Pat Harrigan (R-North Carolina) introduced in the U.S. House of Representatives the "Business Activity Tax Simplification Act of 2025" in order to "modernize" P.L. 86-272 (expanding its pre-emption to include other taxes and services) and re-impose the "physical presence" nexus standard.

Cases
California

In Re Ken's Foods, Inc., No. 20076391, CA Office of Tax Appeals (August 1, 2025): salad dressing manufacturer sales representatives stock checks and display inspections at direct/indirect customer stores/restaurants were considered protected ancillary to solicitation activities, but collecting competitor samples and customer information for product matching and product creation and the Corporate Chef's menu ideation were unprotected non-solicitation market research activities, not *de minimis*.

In *Xavier Garcia-Rojas v. Franchise Tax Board*, No. A172054, California Court of Appeal, First Appellate District, Div. Three (5/2/2026), the appellate court reversed the trial court's affirmance of the Board's denial of an income tax refund request by a radiologist residing in Texas who performed imaging analysis for medical facilities in California as a independent contractor. The radiologist was licensed in California, had privileges in the California medical facilities, and had California malpractice insurance. He performed similar work for medical facilities in several other states. He filed California income tax returns of the income received for such work for California facilities and thereafter filed refund claims, arguing that such income was not taxable by California, and litigation ensued. The Board argued that he was a sole proprietorship operating a unitary business pursuant to regulation 17951-4(c), and such income was properly sourced to California. The appellate court disagreed, noting that the Board did not cite any authority supporting its contention that a sole proprietor that engages in one business activity and receives compensation from one corporation is a unitary business. The appellate court considered a unitary business to consist of two or more business entities that are commonly owned and integrated in a way that transfers value among the affiliated entities.

In *Florida v. California*, the Florida Attorney General has filed in the U.S. Supreme Court a Motion to file Bill of Complaint on October 28, 2025, seeking to challenge California's apportionment provisions, which exclude certain occasional sales of property from the sales factor, as a violation of the Commerce, Import-Export and Due Process Clauses. Perry Cooper, "Florida Asks Justices to Bar California Corporate Tax Rule," *Bloomberg Law News* (October 30, 2025). The Franchise Tax Board filed its brief in opposition on February 26, 2026, arguing that Florida lacks standing, not being subject to the California tax, original jurisdiction in the Court does not exist, and several other states have adopted the occasional sales exclusion that Florida complains of. AMERICAN COLLEGE OF TAX COUNSEL, CHAMBER OF COMMERCE OF THE UNITED STATES, and NATIONAL TAXPAYERS UNION FOUNDATION have filed *amicus curiae* briefs in support of Florida. The U.S. Supreme Court has declined to take the case. See Bradley W. Joondeph, "*Florida v. California* and the Fair Apportionment Of Corporate Income," *Tax Analysts Tax Notes State* (April 6, 2026); Perry Cooper, "Supreme Court Stays Out of Florida's Tax Dispute With California," *Bloomberg Law News* (June 2, 2026).

Connecticut

In *Daniels v. Commissioner of Revenue Services*, No. SC21150 (June 16, 2026), the Connecticut Supreme Court reversed the trial court's determination that executor of the decedent's estate, in challenging a tax assessment against the estate, was required to and failed to meet the "clear and convincing evidence" standard of proof in attempting to establish that the decedent was a nonresident of Connecticut at the time of death. Instead, the executor's burden of proof standard was merely "preponderance of evidence." The case was remanded for a new trial on the residency issue.

New York

In *American Catalog Mailers Association v. Department of Taxation and Finance*, No. CV-25-0865, the New York Supreme Court, Appellate Division, Third Judicial Department by order dated May 7, 2026, affirmed the lower court's dismissal of the Association's complaint that sought a declaratory judgment that the Department's adoption by regulation of portions of the 2021 MTC Revised Statement on P.L. 86-272 that certain non-solicitation-related internet interactions between a remote seller and customer are beyond the scope of protection under P.L. 86-272 itself constitutes a violation of P.L. 86-272 and is invalid. The Association is seeking review by New York's highest court. Paul Williams, "Trade Group seeks NY Top Court Review of P.L. 86-272 Rule," Law 360 Tax Authority State & Local (July 14, 2026).

The New York Tax Appeals Tribunal in *In re Zelinsky*, DTA NOS. 830517 AND 830681, affirmed the administrative law judge's income tax refund claim denial of Professor Zelinsky, who challenged the constitutionality of New York's "convenience of the employer" rule during the governor's "stay home" order in effect during COVID 19. Professor Zelinsky worked from home in Connecticut while teaching law in New York City during the "stay home" order. The professor filed a petition with the Supreme Court of the State of New York (July 10, 2025), seeking annulment of the Tribunal's order. Oral arguments were heard on June 1, 2026. Danielle Muoio Dunn, "NY Judges Question Viability of Tax on Remote Work in Modern Age," *Bloomberg Law News* (June 2, 2026). The Supreme Court of the State of New York, Appellate Division, Third Judicial Department, has affirmed the Tribunal, finding that the Tribunal rationally concluded that the law school did not require the professor to work in Connecticut even though he could not work on campus in New York. Case No. CV-25-1156. Perry Cooper, "NY Tax on Remote Work Again Withstands Professor's Challenge," *Bloomberg Law News* (July 2, 2026). Professor Zelinsky is expected to appeal this ruling to New York's highest court.

Washington

In *Chicago Title Insurance Co. v. Department of Revenue* (No. 59809-4-II) (July 14, 2026), the Washington Court of Appeals issued a revised opinion, largely consistent with its earlier opinion dated March 3, 2025, which reversed the lower court's ruling granting B&O and use tax refunds to Chicago Title, determining that the company's title insurance services involving Washington real property are sourced to the state because the customers made first use of those services in Washington. The company provided its services remotely through affiliated agencies that were located outside the state and had claimed the income from those services should be sourced to the affiliated agencies' locations. Cameron Browne, "WASHINGTON COURT: INSURANCE COMPANY'S SERVICES SOURCED TO STATE," *Tax Analysts Tax Notes State* (March 2026). In the revised opinion, the court clarified that the judgment applies only to Chicago Title's directly performed operations and doesn't extend to agency operations done through affiliates, but largely cemented the original determination. Peyton Rhodes, "Judges Reiterate Position on Washington Tax for Remotes Services," *Bloomberg Tax Daily Tax Report* (July 15, 2026).

Wisconsin
In *ASAP Cruises, Inc. v. Wisconsin Department of Revenue*, Case No. 2023AP1251, Wisconsin Court of Appeals, District I (6/3/2025), ASAP Cruises, Inc., a Florida corporation, had agreements with travel agents in Wisconsin. Agents sold cruises, tours, and travel packages, from which ASAP retained 15% of the sales as income and provided the remainder to the agent as a commission. The agents accessed the travel packages they sell through an online platform provided by ASAP. The Department assessed ASAP for income tax, and ASAP argued protection under P.L. 86-272 because it was selling SaaS, considered tangible personal property. Department contended those were unprotected sales of services: travel packages, not Saas. The Court of Appeals agreed. The petition for review to Wisconsin Supreme Court was denied on February 12, 2026. On July 13, 2026, the taxpayer filed a petition for certiorari with the U.S. Supreme Court, raising the following question: "Do the protections of P.L. 86-272 extend only to taxpayers that solicit sales of tangible personal property or—as held in *Heublein*—is the federal law concerned with the level of in-state business activity regardless of how the taxpayer earns its income?" Perry Cooper, "Justices Asked to Broaden Federal Protections From State Tax," *Bloomberg Law News* (July 15, 2026).

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