



MULTISTATE TAX COMMISSION

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To: The Commission
From: Bryan Kelly, Nexus Committee Chair
Re: Nexus Committee Activities in FY 2024
Date: July 31, 2024

Nexus Committee Report for FY 2024

The Nexus Program results for FY 2024 (July 1, 2023 through June 30, 2024) are provided below.

- Nexus states' collections: \$28,743,260 (\$25,846,276 FY 2023)
- Nexus states' executed agreements: 494 (391 FY 2023)
- Nexus states' average contract value: \$58,185 (\$66,103 FY 2023)

The above includes amounts paid by the taxpayer directly to the states and reported to the Commission. The Commission received applications from 203 taxpayers in calendar year 2023. For calendar year 2024 to date (as of June 30, 2024), 94 taxpayers have so far applied. Most of the applications are based on sales/use tax economic nexus.

The Nexus Committee welcomes Mississippi as the newest participant to join the National Nexus Program, effective July 1, 2024.

The Nexus Committee met in person in open and closed session on July 24, 2023 in Austin, Texas, on November 15, 2023 in Montclair, New Jersey, and on May 1, 2024 in Kansas City, Missouri.

The Committee considered at the July 24, 2023 meeting: Richard Cram and Professor Richard Pomp gave a presentation on "purposeful avilment" conduct by internet sellers. Harry T. Chavis, Acting Director, Global OPS, Financial Crimes, IRS Criminal Investigation, gave a presentation on the IRS voluntary disclosure program. The

Committee completed its annual review of the Nexus Program Charter. The meeting was well attended with 64 in-person attendees and 74 virtual attendees.

The Committee considered at the November 15, 2023 meeting: Michael Hilkin, attorney in McDermott, Will & Emery's New York City office, gave a presentation on the difficulties that remote sellers and marketplace facilitators face in attempting to get information and comply with locally administered local excise taxes and local permit or registration requirements, as well as audits. He urged the Nexus Committee to consider taking up a project to encourage administrative simplification and uniformity of local tax systems. The meeting was well attended with 66 in-person attendees and 51 virtual attendees.

The Committee considered at the May 1, 2024 meeting: Richard Cram presented a memorandum (attached) showing the results of a survey of the participating states concerning how Paragraphs 5.1.2, 5.1.4, and 5.2 of the standard agreement should be interpreted in computing the lookback period start date when the taxpayer has collected but unremitted sales/use tax or employer withholding tax prior to the state's regular lookback period.

Interpretation A provided that under Paragraph 5.1.4, the taxpayer will be required to remit the tax due on the returns covering the state's regular lookback period and in addition, will remit the collected but previously unremitted tax from any time periods prior to the regular lookback period start date. Under Paragraph 5.2, the taxpayer will owe penalties (unless waived by the state) and interest on tax due from the regular lookback period and will also owe interest and penalties on collected but previously unremitted tax from whenever that tax was collected. Three states voted for Interpretation A.

Interpretation B provided that the lookback period start date stated in Paragraphs 5.1.2 and 5.2 will be changed from the state's regular lookback start date to the first day of the month in which the taxpayer collected but did not remit the tax, even though the taxpayer may not have collected any tax for some time periods thereafter. The taxpayer will then need to file returns, pay tax, interest, etc. covering that entire time period from that lookback period start date.

Eighteen states voted for Interpretation B, so Interpretation B prevailed. The meeting was well attended with 88 in-person attendees and 58 virtual attendees.