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# State of New Hampshire Department of Revenue Administration



109 Pleasant Street  
PO Box 457, Concord, NH 03302-0457  
Telephone 603-230-5005  
www.nh.gov/revenue

John T. Beardmore  
Commissioner

September 10, 2013

Her Excellency, Governor Margaret Wood Hassan  
And the Honorable Council  
State House  
Concord, New Hampshire 03301

### Requested Action

1.13 (board met)

Authorize the Department of Revenue Administration to pay the Multistate Tax Commission (MTC), Washington DC, in the amount of \$12,144 for membership in the Nexus Program as an Associate Member effective upon payment until June 30<sup>th</sup>, 2014.

Funding is available in the account:

	Funding
01-84-84-84051-1301-026-500251	Audit Division-Organizational Dues
FY2014	\$12,144

### Explanation

The MTC is an intergovernmental state tax agency that works on behalf of state tax agencies and taxpayers in several ways, depending on membership level and program enrollment. Each state is automatically an Associate Member, with any prior involvement with the MTC, with no fee. New Hampshire is an Associate Member. There are two higher levels of membership, and options to join two types of programs (Nexus and Audit), regardless of membership level. This request is for the fee of the Nexus Program, and not any higher membership status. As a participant in the Nexus Program the agency will be able to participate in reviewing national nexus research as well as participate in the MTC Voluntary Disclosure (VD) Program. Through the MTC VD program taxpayers are able to work with several states at once to disclose their tax liability within specific terms. Additionally, as a National Nexus Program participant a discount is offered on training programs for state tax auditors.

Listed below are the answers to the standard questions required for Governor and Council organization dues and membership approval submissions:

1. How long has this organization been in existence and how long has this agency been a member of this organization? The organization has been in existence since 1967 and the agency has been a member since at least 1994 as an Associate Member. The National Nexus Program was founded in 1990 and New Hampshire has been a National Nexus Program member in the past.
2. Is there any other organization which provides the same or similar benefits which your agency belongs to? No.
3. How many other state's belong to this organization and is your agency the sole New Hampshire state agency that is a member? At various membership levels, forty-eight states are members of the MTC. Thirty-seven states participate in the National Nexus Program.

TDD Access: Relay NH 1-800-735-2964

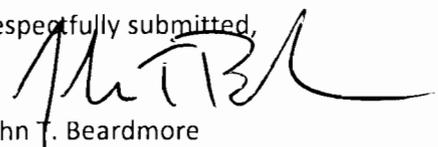
*Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department.*



4. How is the dues structure established? (Standard fee for all states, based on population, based on other criteria, etc) National Nexus Program Fees are apportioned among the participating states according to a formula whereby 60% of the costs are divided on an equal basis and 40% on the basis of relative shares of state tax revenues of participating states. As an Associate Member the agency would also pay an additional 20% general operations support fee (included in the amount requested). Fees are capped so that no state pays for than 5% of total program fees.
5. What benefit does the state receive from participating in this membership? The state will benefit from participating in the National Nexus Program through taxpayer disclosure of tax obligations, the participation in nationwide nexus discussions, and access to discounted training for tax auditors.
6. Are training or education/research materials included in the membership? If so, is the cost included? Explain in detail. No. Participation in the Nexus Program affords the agency discounts in training programs, but the training programs must be enrolled in, and require a separate fee.
7. Is the membership required to receive any federal grants or required in order to receive or participate in licensing or certification exams? Explain. No.
8. Is there any travel included with this membership fee? Explain in detail any travel to include the number of employees involved, the number of trips, destination if known and purposes of membership supported trips. No.
9. Which state agency employees are directly involved with this organization? (Indicate if they are members, voting members, committee members, and/or officers of the organization.) The agency as a whole is considered a member. Likely direct communications will occur with: John Beardmore, Commissioner; Kathleen Sher, Director of Audit and Kerrin Rounds, Assistant Director of Audit.
10. Explain in detail any negative impact to the State if the Agency did not belong to this organization. The agency will not receive any additional revenue from the taxpayers that conduct a VD through the MTC.

We respectfully request your consideration regarding this matter.

Respectfully submitted,



John T. Beardmore  
Commissioner





MULTISTATE TAX COMMISSION

## INFORMATION FOR NEW HAMPSHIRE REGARDING MTC MEMBERSHIP LEVELS

July 30, 2013

### **New Hampshire's Associate Membership**

New Hampshire has been an associate member of the Commission since at least 1994 (there is a gap in our records between June 1988 and July 1993; New Hampshire was not an associate member before July 1988).

Associate member states pay no membership fee to the Commission. They are states that participate in meetings and otherwise consult and cooperate with the Commission and its other member states. Associate member participation allows states to be better informed of MTC activities, and also provides an opportunity for state tax personnel to be involved in the Commission's uniformity work (through its Uniformity Committee) and for state lawyers to participate in the activities of the Litigation Committee (meetings and training).

Associate member states may participate in the National Nexus Program, the Joint Audit Program, or both. There is a fee for each of these programs, and because associate member states do not pay a membership fee to the Commission, they pay an additional 20 percent general operations support amount as part of their program fees.

New Hampshire has been a National Nexus Program member in the past.

Although associate membership is traditionally requested by a state's governor or top tax administrator (or in some cases by action of the legislature), an associate member is basically a state that wishes to participate in Commission meetings and be generally associated with the Commission. States that have formerly participated at other membership levels or in Commission programs are considered as associate members unless they specifically request to not be so considered.

### **Other Membership Levels**

There are two other membership levels with the Commission: Compact (full) membership and Sovereignty membership.

### Compact Membership

Compact members are states (represented by the heads of the tax agencies administering corporate income and sales and use taxes) that have enacted the Multistate Tax Compact into their state law. These are the states whose top tax administrators formally comprise the Commission and govern its affairs, as they are able to vote and hold Commission offices (Chair, Vice Chair, Treasurer, and four at large positions on the Executive Committee).

New Hampshire would need to enact the Multistate Tax Compact in order to become a full member of the Commission.

### Sovereignty Membership

Sovereignty members are states that support the purposes of the Multistate Tax Compact through regular participation in, and financial support for, the general activities of the Commission. These states join in shaping and supporting the Commission's efforts to preserve state taxing authority and improve state tax policy and administration. Sovereignty state tax administrators do not have a vote at Commission or Executive Committee meetings, and cannot hold a Commission office; sovereignty states are otherwise treated just like compact states.

New Hampshire would request sovereignty membership through the state's governor or the commissioner.

### Membership Fees for Compact or Sovereignty Membership

The general membership assessment is paid by compact and sovereignty members. This assessment finances the uniformity, research, interaction on federal legislation, legal support, and litigation activities of the Commission as well as the annual conference.

The total membership assessment is set to cover the above activities and staffing. Then the total membership assessment is apportioned to the states according to a formula in the Multistate Tax Compact whereby 10 percent of the fees are divided on an equal basis, and 90 percent on the basis of relative amounts of certain state and local revenues (as specified in Art. VI, Sec. 4(b) of the Compact). The state and local revenues are determined by a survey of the states.

### Program Fees

Fees for participation in the Joint Audit Program are set on a reimbursement basis to cover the costs of operating of the program. Responsibility for reimbursement is divided among the states by a schedule approved by the Executive Committee. The distribution of the fees among participating states is based on a long-range schedule of fee changes initially adopted in May 1991 and reviewed every year as part of the Commission's budget process.

States participating in both income and sales tax audits pay a base fee amount that is equal for each state and is based on a cost reimbursement method. States participating in only income or sales tax audits pay an amount equal to 60 percent of the base fee amount for participating in both types of audits. States that are not compact or sovereignty members also pay an additional 20 percent general operations support fee.

National Nexus Program Fees are set to cover the costs of operating the program. The nexus fees are apportioned among participating states according to a formula whereby 60 percent of the costs are divided on an equal basis, and 40 percent on the basis of relative shares of state tax revenues of participating states (obtained from the Bureau of the Census). States participating in only the income or sales tax aspects of the program pay 60 percent of the equal share, but otherwise pay the 40 percent component just as those participating in both.

Nexus fees are also capped such that no state pays more than five percent of the total program fees. States that are not compact or sovereignty members also pay an additional 20 percent general operations support fee.

Finally, tuition for various Commission schools and other training programs are set on a full cost recovery basis in accordance with the direction of the Executive Committee. Compact and sovereignty states pay a reduced amount for training; Joint Audit or National Nexus Program states pay a higher, but still reduced amount, than other states or non-state participants.

A chart showing current estimated fees for various membership levels and program participation is attached.

**MTC PROGRAM COSTS**

**NEW HAMPSHIRE**

<b>COSTS AS A COMPACT OR SOVEREIGNTY MEMBER</b>			
Program / Membership Status	Projected FY 13/14	Projected FY 14/15	Projected FY 15/16
Compact / Sovereignty Membership	10,209	10,413	10,621
Nexus Program	10,120	10,322	10,529
Audit Program (1 tax)	41,843	91,463	124,380
<b>TOTAL - NEW HAMPSHIRE</b>	<b>62,172</b>	<b>112,198</b>	<b>145,530</b>

<b>COSTS AS AN ASSOCIATE MEMBER*</b>			
Program / Membership Status	Projected FY 13/14	Projected FY 14/15	Projected FY 16/16
Nexus Program**	12,144	12,387	12,635
Audit Program (1 tax)**	50,211	109,755	149,256
<b>TOTAL - NEW HAMPSHIRE</b>	<b>62,355</b>	<b>122,142</b>	<b>161,891</b>

**SAVINGS IF NEW HAMPSHIRE BECOMES A COMPACT OR SOVEREIGNTY MEMBER**      **\$184**      **\$9,944**      **\$16,360**

- \* No charge for Associate Membership
- \*\* Includes a 20% non-member general operations fee

**3 year phase-in for Audit Program Participation:**  
 Year 1 = 35% of the base 1-tax audit fee (FY 13/14 for NH)  
 Year 2 = 75% of the base 1-tax audit fee (FY 14/15 for NH)  
 Year 3 = 100% of the base 1-tax audit fee (FY 15/16 and thereafter for NH)