

1



2



**TAX COMPLIANCE**

WHAT KEEPS YOU UP AT NIGHT?  
WHAT DO I DO TO SLEEP BETTER?

**BROWN EDWARDS**  
certified public accountants

3



**TAX COMPLIANCE**

Checklist to "test" compliance

- WHAT TAX AM I CONCERNED ABOUT?
  - Payroll
  - Sales & Use
  - Income
  - Business (Annual Reports)
  - Gross Receipts
  - Property

**BROWN EDWARDS**  
certified public accountants

4



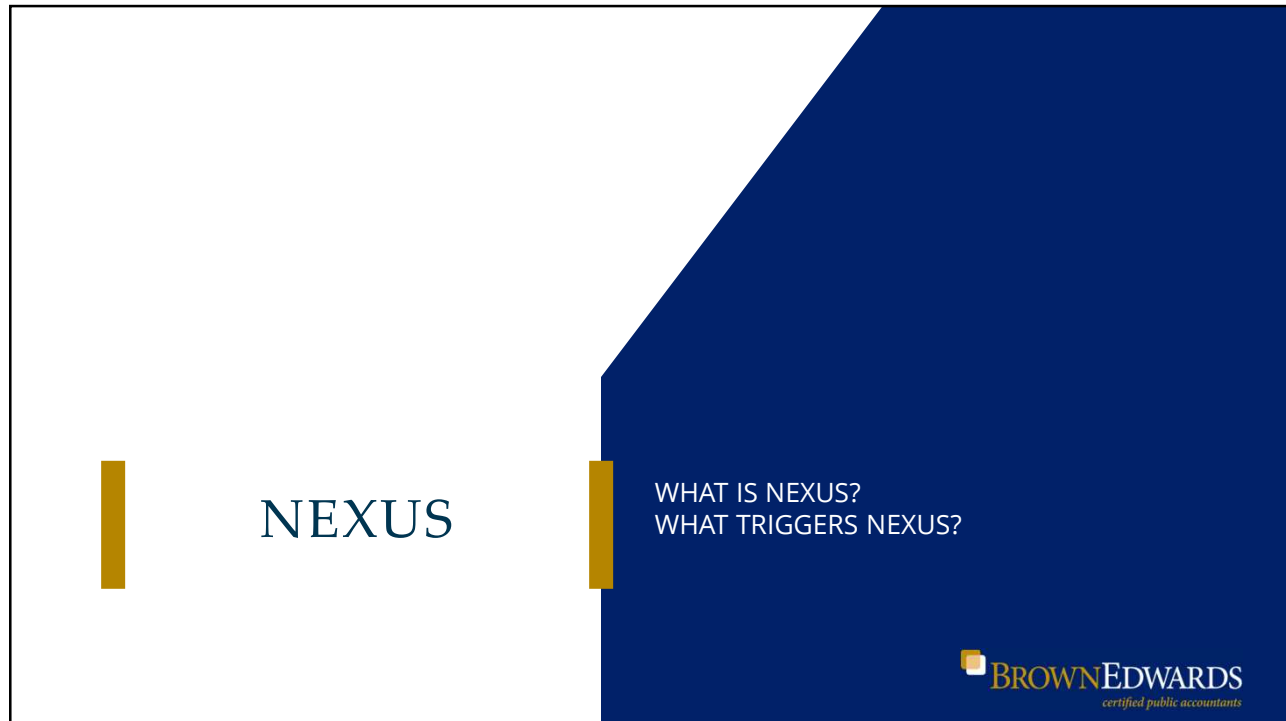
5

## TAX COMPLIANCE

### Checklist to "test" compliance


- AM I TAXABLE?
  - Type of entity
  - Industry
  - Type of transaction
    - What am I selling?
    - Who am I selling it to?
  - Nexus – Do I have it?

6

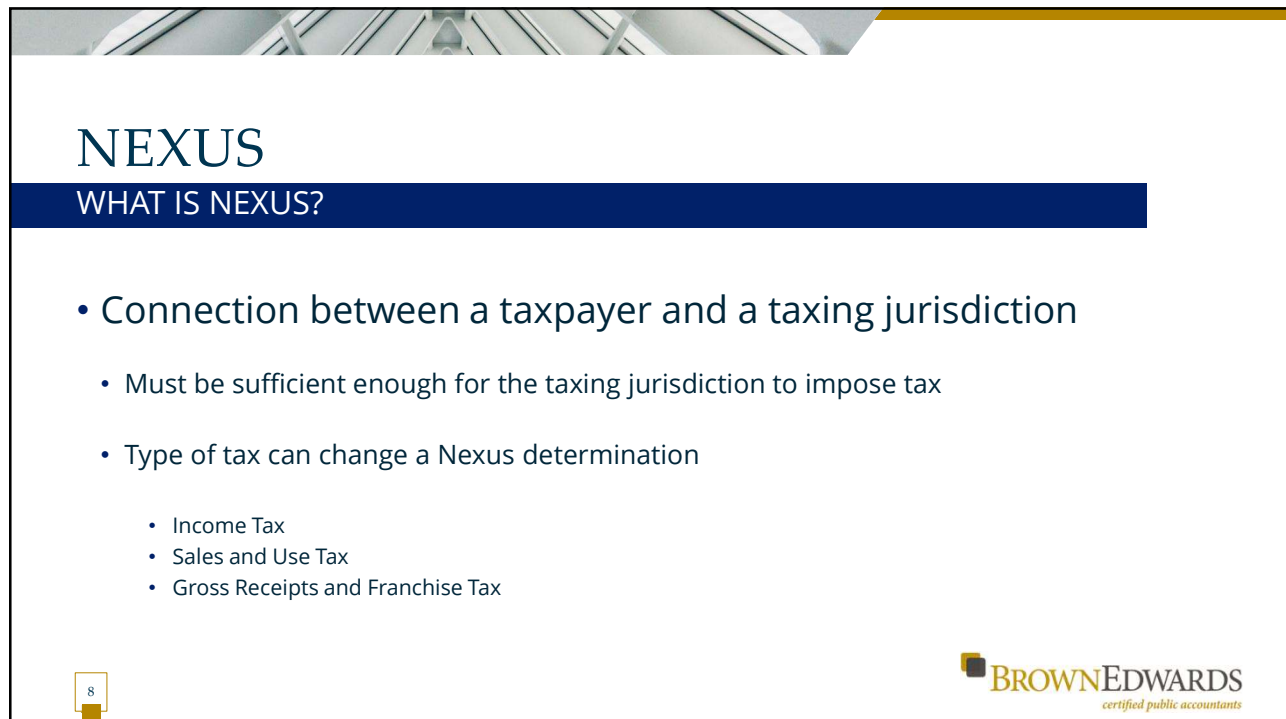


# NEXUS

WHAT IS NEXUS?  
WHAT TRIGGERS NEXUS?

 **BROWNEDWARDS**  
certified public accountants


7



# NEXUS

## WHAT IS NEXUS?

- Connection between a taxpayer and a taxing jurisdiction
  - Must be sufficient enough for the taxing jurisdiction to impose tax
  - Type of tax can change a Nexus determination
    - Income Tax
    - Sales and Use Tax
    - Gross Receipts and Franchise Tax

 **BROWNEDWARDS**  
certified public accountants

8

# NEXUS

## WHAT TRIGGERS NEXUS?

- Depends on the type of tax
  - Income Tax –
    - Can be physical presence through employees or property or may meet certain economic conditions
  - Sales and Use Tax –
    - Physical presence will always trigger Nexus
    - Physical presence is no longer solely required and Economic Nexus is the norm

9

**BROWNEDWARDS**  
certified public accountants

9

# NEXUS

## WHAT TRIGGERS NEXUS?

- State Income Tax
  - Physical Presence (4 states)
    - Employees or Property/Inventory
  - Economic (14 states)
    - Merely having sales in a state
  - Physical and Economic (24 states)
  - Factor Presence (11 states)
    - Exceeding a specified threshold of physical or economic presence

10

**BROWNEDWARDS**  
certified public accountants

10

## SALT TRIGGERS

- Industry
- Website
- Marketplace
- Common carrier or Delivery Trucks
- Remote Employees
- Nexus Questionnaire

11

11

## SALT TRIGGERS

- Prior Year Workpapers & Tax Returns
- New Trial Balance Accounts (Ex: Withholding Tax – SC)
- Asset Additions
- Asset Disposals

12

12

# ASKING THE RIGHT QUESTIONS

- State apportionment. The following information should be provided for each state in which the company will file returns for 2025:
  - a. Gross payroll by state
  - b. Revenue by type and by state
  - c. Real Estate and other rental expense by state
  - d. Non-revenue personal property allocated to each state based on location
- Review a listing of states in which you are registered for any type of tax. Provide the state, the date registered, and the type of tax for which you are registered.
- Review a list of states in which employees, inventory, and/or property (PP&E) are located.
- Review a list of the states in which you are renting property, including the annual rental amount paid for the property.



13

# ASKING THE RIGHT QUESTIONS

- Review a list of your sales by state where your customer ultimately received the product or the benefit of the service.
  - a. For products: Do you use common carriers, or do you use your own trucks for delivery?
  - b. For services: Please provide the sales by state in which your customers are located.
- Have you received a Nexus Questionnaire from any state during the year? If yes, answer but very carefully.
  - a. For any potential future questionnaires, please provide copies to us prior to submitting to a state government.
- Tax payments. Please provide detail of state tax payments made on behalf of the entity or the partners.
- Tax notices. Please provide copies of any tax notices and their disposition if not already provided to us.



14

## ASKING THE RIGHT QUESTIONS

### Specific:

How much of total sales were made in VA?

### **Limited Nexus Detection**

We identify sales made in VA, but we may incorrectly assume that all remaining sales occurred in TN.

### Broad:

Were any sales made outside of TN? If so, please provide sales by state.

### **Unlimited Nexus Detection**

A report of sales by state would allow us to discover sales made in all other states.

15

**BROWNEDWARDS**  
certified public accountants

15

## NEXUS

### Public Law 86-272

- What is Public Law 86-272?
  - Federal law adopted by Congress in 1959.
  - Prohibits a state from imposing a net "income" tax on the income of a person/entity derived with the state from interstate commerce if:
    - The only business activities within the state consists of the solicitation of orders for sales of tangible personal property
    - Provided the orders are sent outside the state for acceptance or rejection
    - If accepted, filled by shipment or delivery from a point outside the state.

16

**BROWNEDWARDS**  
certified public accountants

16



# NEXUS

## Public Law 86-272

- ONLY applies to Income Tax
  - State income tax – Public law 86-272 protection is provided for sales of tangible personal property
  - State sales/use tax – No Public law protection provided
  - State gross receipts/franchise tax – No Public law protection provided

17

 **BROWNEDWARDS**  
certified public accountants

17

# NEXUS

## Public Law 86-272

- States are changing state laws
  - Changing the interpretation of PL 86-272 protections.
  - Multi-State Tax Commission (MTC) has adopted multiple interpretations of PL 86-272 over the years. First in 1986, then 1993, 1994, 2001 and now again in 2021.
  - Goal is to provide taxpayers with a consistent interpretation among member states.

18

 **BROWNEDWARDS**  
certified public accountants

18

# NEXUS

Public Law 86-272

- What is the Multistate Tax Commission?
  - Intergovernmental state tax agency.
  - Works on behalf of states and taxpayers to facilitate the equitable and efficient administration of state tax laws.
    - Tries to provide consistency in multi-state tax law.
    - Recommendations are not binding on member states.

19

**BROWNEDWARDS**  
certified public accountants

19

# NEXUS

Public Law 86-272

- Multistate Tax Commission Membership
  - Compact Members – states who have enacted Multistate Tax Compact into their state law.
  - Sovereignty Members – states who support the purposes of the Multistate Tax Compact and regularly participate and support financially.
  - Associate Members – states who participate in Commission meetings and consult and cooperate with the Commission.

20

**BROWNEDWARDS**  
certified public accountants

20

# NEXUS

Public Law 86-272

## • Protected Activities, Examples

- Solicitating orders for sales of tangible personal property by any type of advertising.
- Carrying samples and promotional materials only for display or distribution without charge or other consideration.
- Furnishing and setting up display racks and advising customers on the display of the business's products without charge or other consideration.
- Passing orders, inquiries or complaints on to the home office.

21

**BROWNEDWARDS**  
certified public accountants

21

# NEXUS

Public Law 86-272

## • Activities Conducted Via the Internet

- Requires the same general analysis as with respect to persons that sell tangible personal property by other means.
- Again, shielded only if the business activity it engages in with that state is solicitation of orders for sales of tangible personal property.
  - What does the taxpayer website offer the customer within the state in which the customer resides?

22

**BROWNEDWARDS**  
certified public accountants

22

# NEXUS

## Public Law 86-272

### • Activities Conducted Via the Internet

- When a business interacts with a customer via the business's website or app, the business engages in a business activity within the customer's state.
- If the business presents static text or photos on its website, that presentation does not in itself constitute a business activity within those states where the customers reside.

23

 **BROWNEDWARDS**  
certified public accountants

23

# NEXUS

## Public Law 86-272

### • Activities Conducted Via the Internet

- The following would defeat PL 86-272 immunity:
  - Business provides post-sale assistance to in-state customers via electronic chat or email
  - Business solicits and receives on-line applications for its branded credit card via the business website.
  - Business website invites viewers in a customer's state to apply for non-sales positions with the business.
  - Business places internet "cookies" onto the computers or other electronic devices of in-state customers that gather customer search information.
  - Business remotely fixes or upgrades products previously purchased by in-state customers.

24

 **BROWNEDWARDS**  
certified public accountants

24

# NEXUS

## Public Law 86-272

- What's new in the PL 86-272 space?
  - H.R. 427 – The Interstate Commerce Simplification Act of 2025:
    - House Judiciary Committee advanced a version of the federal reconciliation bill on 5-7-2025.
    - This bill would specify that protected solicitation includes “any business activity that facilitates the solicitation of orders even if that activity may also serve some independently valuable business function apart from solicitation.”
    - Even if this passes, don't think the fight is over as states have been trying workarounds since this PL was passed. Look for more gross receipts or commerce taxes to appear.

25

 **BROWNEDWARDS**  
 certified public accountants

25

# NEXUS

## WHAT TRIGGERS NEXUS?

- State Sales and Use tax
  - No Public Law 86-272 protection
  - Wayfair court decision
    - Physical presence is no longer necessary
    - Remember that physical presence will always create nexus
  - Economic Nexus is now the standard
    - Many states have varying Economic Nexus standards

26

 **BROWNEDWARDS**  
 certified public accountants

26

# NEXUS

## Trends and Takeaway

- Trends
  - Physical Presence is no longer the sole standard
  - Moving toward Economic Nexus
- Takeaway
  - Nexus standards are complex and vary among states
  - Important to understand that complexity and tax exposure
  - Utilize as many tools as necessary to help navigate the complexity

27

 **BROWNEDWARDS**  
 certified public accountants

27

# NEXUS

## Resources

- **MULTISTATE TAX COMMISSION WEBPAGE**
- **Multistate Tax Commission Contact information**
  - (202) 650-0300
  - [Mtc@mtc.gov](mailto:Mtc@mtc.gov)
- **National Nexus Program**
  - (202) 695-8140
  - [nexus@mtc.gov](mailto:nexus@mtc.gov)
- **PL 86-272 Statement of Information Project**

28

 **BROWNEDWARDS**  
 certified public accountants

28

# HORROR STORIES



29

# ANY QUESTIONS?



30



31