



Nexus Questionnaire

Part I. General Questions

1. Department of Revenue Representative _____

2. Type of Business. Please mark one box.

☐ C Corp ☐ S Corp ☐ Partnership ☐ Exempt from Tax ☐ Other (Specify) _____

3. Entity Information

Legal Name of Business	Contact Person
d/b/a Name	Contact Phone
Street Address	Contact Email
City/State/Zip	Business Web Address
Federal Employer Identification Number	Year End Date
Montana Secretary of State ID Number	Date of Incorporation
State or Country of Incorporation	Date Business Began Activity in Montana*

* If you have not yet begun to do business in Montana, please state so and answer the rest of the questionnaire according to how the company plans to do business in Montana.

4. Are you a sole proprietor, disregarded entity or a single member LLC? If yes, provide the owner's name and SSN or FEIN ☐ Yes ☐ No

Name _____ SSN/FEIN _____

5. Status of Your Business. Please mark one box.

☐ Active ☐ Dormant ☐ Dissolved ☐ Non Survivor of Merger ☐ Other (Specify) _____

6. Is this business the survivor of a merger with another business that was formerly a Montana taxpayer? If yes, provide the name and FEIN of the surviving and non-surviving business and the date of the merger. ☐ Yes ☐ No

Date _____ Survivor's Name _____ FEIN _____

Non-Surviving Business Name _____ FEIN _____

Answer all the following questions as they relate to the business' activities in Montana during the past ten years. Space is provided on the last page of the questionnaire for detailed explanation of all "Yes" answers. Number your explanation to agree with the part and number of the question answered.

7. Explain the nature of your business and give a description of the property and/or services sold _____

8. Describe your principle business activity in Montana _____

Part I. General Questions - Continued

9. List all the states in which you conduct business activities _____
10. Are you a member (parent or subsidiary) of a consolidated group for federal income tax purposes? If yes, provide the name and FEIN of the ultimate U.S. parent..... ☐ Yes ☐ No
Name _____ FEIN _____
11. List all subsidiaries, divisions, disregarded entities or parent corporations engaged in any activities within Montana (include additional pages if needed).
- | Name | Relationship | Address | FEIN |
|----------|--------------|---------|-------|
| a) _____ | _____ | _____ | _____ |
| b) _____ | _____ | _____ | _____ |
| c) _____ | _____ | _____ | _____ |
| d) _____ | _____ | _____ | _____ |
12. Have you or an affiliate ever filed Corporate License Tax returns with Montana? If yes, provide the date of last return, and name and FEIN under which return was filed. ☐ Yes ☐ No
Date _____ Name _____ FEIN _____
13. Have you or an affiliate ever filed any other tax returns in Montana (for example, withholding, S corporation, partnership, liquor, etc.)? ☐ Yes ☐ No
- a) If yes, provide the type of return, and name and FEIN under which the return was filed (include additional pages if needed).
- | | | |
|------------|------------|------------|
| Type _____ | Name _____ | FEIN _____ |
| Type _____ | Name _____ | FEIN _____ |
| Type _____ | Name _____ | FEIN _____ |
- b) If you or an affiliate have filed withholding returns in Montana, please provide an explanation of those employees' activities.
14. Is your business registered with another Montana state agency (for example, the Department of Labor and Industry for unemployment insurance or worker's compensation, the State Auditor's Office for premiums tax, etc.)? If yes, provide the state agency, and name and FEIN under which the business registered (include additional pages if needed). ☐ Yes ☐ No
- | | | |
|--------------|------------|------------|
| Agency _____ | Name _____ | FEIN _____ |
| Agency _____ | Name _____ | FEIN _____ |
| Agency _____ | Name _____ | FEIN _____ |
15. Is the business a partner in a partnership that has operations, conducts business or owns property in Montana? If yes, provide the name and FEIN of the partnership with activity in Montana (include additional pages if needed)..... ☐ Yes ☐ No
- | | |
|------------|------------|
| Name _____ | FEIN _____ |
| Name _____ | FEIN _____ |
| Name _____ | FEIN _____ |

Part I. General Questions - Continued

16. Have you received a letter from the Department of Revenue? If yes, provide the date and Letter ID..... ☐ Yes ☐ No
Date _____ Letter ID _____

17. List names and addresses of your three largest customers in Montana

- a) _____
b) _____
c) _____

18. In the past ten years, did the business have any unrelated business income reportable on Federal Form 990-T? ☐ Yes ☐ No

19. Enter net income (before net operating loss and special deductions, i.e. Line 28) on federal tax return for last five years

- a) 20 ____ \$ _____
b) 20 ____ \$ _____
c) 20 ____ \$ _____
d) 20 ____ \$ _____
e) 20 ____ \$ _____

20. Enter amount of sales for the last five years

Tax Year Ended	Total Everywhere Sales	Total Montana Sales
a) ____ / ____ / ____	\$ _____	\$ _____
b) ____ / ____ / ____	\$ _____	\$ _____
c) ____ / ____ / ____	\$ _____	\$ _____
d) ____ / ____ / ____	\$ _____	\$ _____
e) ____ / ____ / ____	\$ _____	\$ _____

Part II. Sales

1. Did you derive any type of income from sources located in Montana (sales receipts, fees for services, franchise fees, royalties, licensing fees, rents, etc.)? If yes, please specify. ☐ Yes ☐ No
2. Do you solicit the sales of tangible personal or real property in Montana? ☐ Yes ☐ No
3. Do you solicit the sales of services or intangible property in Montana? ☐ Yes ☐ No
4. Do you provide services in Montana? ☐ Yes ☐ No
5. Please provide an explanation of how sales are made in Montana in the space provided on the last page.
6. Have sales to Montana customers been included in the another state's sales factor? ☐ Yes ☐ No
If yes, list the state(s) _____

Part III. Property

1. Does the business now have, or did it at any time have, the following:
- a) an office in Montana? ☐ Yes ☐ No
 - b) an agency in Montana? ☐ Yes ☐ No
 - c) a warehouse in Montana? ☐ Yes ☐ No
 - d) another place of business in Montana? ☐ Yes ☐ No
 - e) If yes to any of the above, provide the location, dates and nature of business activity.
2. Does the business or any affiliate hold title (or has it in the past held title) to any tangible property or realty located and/or used in Montana (such as merchandise inventory, motor vehicles, office or industrial equipment, land, etc.)? If yes, provide the locations and dates..... ☐ Yes ☐ No
- a) In what name was the property licensed or listed for tax purposes? (include additional pages if needed)
- Name _____
3. Does the business or any affiliate lease or rent (or has it in the past leased or rented) any tangible property or realty located and/or used in Montana (such as warehouse space, motor vehicles, office space, industrial equipment, etc.)? If yes, provide the location and dates..... ☐ Yes ☐ No
- a) In what name was the property licensed or listed for tax purposes? (include additional pages if needed)
- Name _____
4. Have you licensed intangible rights for use in Montana or sold real estate, services or intangibles in Montana? If yes, provide the location, dates, and description of property, service, or intangibles. ☐ Yes ☐ No
5. Does the business now have, or has it ever had, consigned inventory in Montana? ☐ Yes ☐ No
6. Did title to any property, located in Montana, remain with the business until the contract price was fully paid? ☐ Yes ☐ No
7. Does the business maintain a security interest in any products sold or located in Montana? ☐ Yes ☐ No
8. Does the business have title to goods present in Montana on trial or approval?..... ☐ Yes ☐ No
9. Does the business have, or has it ever had, company owned advertising material in Montana?..... ☐ Yes ☐ No
10. Does the business do any localized advertising (cooperative or otherwise) in Montana? If yes, provide the advertising media used. ☐ Yes ☐ No
11. Does the business reserve the right to inspect the customer's facilities or the products after delivery? .. ☐ Yes ☐ No
12. Does the business pick up damaged or returned merchandise in Montana from customers in this state? ☐ Yes ☐ No
13. Were any contracts ever executed by the business in Montana? If yes, provide the location, dates and value of contracts. ☐ Yes ☐ No
14. Does your business ever submit bids to potential customers in Montana in which you offer to sell goods or services based upon conditions specified therein?..... ☐ Yes ☐ No
15. Does your business contract for the use or right to use any research facility situated in Montana? ☐ Yes ☐ No
16. Does your business have contracts with third parties to build, install, repair, or service equipment or products in Montana? ☐ Yes ☐ No

Part IV. Payroll

1. Does or did the business have any employees or other representatives (resident or nonresident) who
 - a) solicit sales in Montana? ☐ Yes ☐ No
 - b) perform services in Montana? ☐ Yes ☐ No
 - c) perform any other activities or otherwise act on the business' behalf in Montana? ☐ Yes ☐ No
 - d) If yes to any of the above, provide the name, address, relationship, territory covered and a brief description of position, nature and scope of duties and principal responsibilities.
2. Does your Montana sales personnel work in states other than Montana? If yes, provide the approximate percentage of their time in Montana. _____ % ☐ Yes ☐ No
3. Does or did the business pay any salaries, wages, fees or commissions to any Montana residents? ☐ Yes ☐ No
4. Does or did the business have Montana residents who did not perform work in Montana? If yes, provide a brief description of position, nature and scope of duties and principal responsibilities. ☐ Yes ☐ No
5. Does the business have employees or other representatives whose base of operations is in another state, but whose duties include occasional calls upon customers or clients in Montana? ☐ Yes ☐ No
6. Does or did the business have an independent contractor that is used in Montana? ☐ Yes ☐ No
 - a) Does the independent contractor represent any other businesses? ☐ Yes ☐ No
 - b) Does the independent contractor have to obtain your business' permission to represent another business? ☐ Yes ☐ No
7. Does the business compensate such representatives or employees by
 - a) straight commission? ☐ Yes ☐ No
 - b) salary plus commission? ☐ Yes ☐ No
 - c) expense account? ☐ Yes ☐ No
 - d) other? (specify) _____ ☐ Yes ☐ No
8. Do you use a standard form or written agreement with employees in Montana? If yes, provide a copy for our review. ☐ Yes ☐ No
9. Does any employee or representative maintain
 - a) an in-home office in Montana? (an office is considered in-home if it is located within the residence of the employee or representative.) ☐ Yes ☐ No
 - b) an office other than an in-home office in Montana? ☐ Yes ☐ No
 - c) If yes to either of the above, answer the following questions regarding the office in Montana..... ☐ Yes ☐ No
 - i) List it as a business address? ☐ Yes ☐ No
 - ii) Receive business calls there? ☐ Yes ☐ No
 - iii) Store inventory there? If yes, provide the dollar amount of inventory. _____ ☐ Yes ☐ No
 - iv) Store samples there? If yes, provide the dollar amount of samples. _____ ☐ Yes ☐ No
 - v) Use office equipment (computer, typewriter, furniture, etc.) supplied by the business? If yes, provide the value of equipment in Montana _____ ☐ Yes ☐ No
 - vi) Receive any office expense reimbursement from the business? ☐ Yes ☐ No
 - vii) Maintain books or records for the business? ☐ Yes ☐ No
 - viii) Use the office for any purpose other than soliciting and receiving orders from customers or for transmitting orders outside of Montana for acceptance or rejection by the business? ☐ Yes ☐ No

Part IV. Payroll - Continued

10. Do any employees or representatives engage in any of the following activities in Montana:

- | | | |
|---|------------------------------|-----------------------------|
| a) Receive purchase orders when calling upon customers? | ☐ Yes | ☐ No |
| If yes, do they have authority to approve or reject the order? | ☐ Yes | ☐ No |
| b) Accept or secure deposits or down payments? | ☐ Yes | ☐ No |
| c) Investigate or approve credit? | ☐ Yes | ☐ No |
| d) Make on-the-spot sales of any items carried by them? | ☐ Yes | ☐ No |
| e) Maintain a sample or display room for more than fourteen (14) days at any one location within Montana during the year? | ☐ Yes | ☐ No |
| f) Collect installments and/or delinquent accounts? | ☐ Yes | ☐ No |
| g) Repossess the business' products? | ☐ Yes | ☐ No |
| h) Authorize credits, warranty adjustments or repairs? | ☐ Yes | ☐ No |
| i) Accept damaged or returned merchandise from customers? | ☐ Yes | ☐ No |
| If yes, do the employees or representatives resell the merchandise to other customers? | ☐ Yes | ☐ No |
| j) Make adjustments for returned or damaged merchandise? | ☐ Yes | ☐ No |
| k) Handle complaints, troubleshoot, or give advice other than transferring to headquarters? | ☐ Yes | ☐ No |
| l) Periodically or occasionally service or repair equipment or property for your customers? | ☐ Yes | ☐ No |
| m) Perform any installation or construction work? | ☐ Yes | ☐ No |
| n) Supervise installation of business' products? | ☐ Yes | ☐ No |
| o) Check inventories of customers or distributors in Montana? | ☐ Yes | ☐ No |
| p) Inspect or have the right to inspect the marketing of your products or any use of your trademarks or tradenames? | ☐ Yes | ☐ No |
| q) Plan dealer promotions? | ☐ Yes | ☐ No |
| r) Arrange cooperative advertising agreements with customers? | ☐ Yes | ☐ No |
| s) Investigate, recommend, or appoint potential dealers, agents, or distributors of the business? | ☐ Yes | ☐ No |
| t) Call on dealer's customers accompanied by dealer's salesmen? | ☐ Yes | ☐ No |
| u) Hire, train, or supervise personnel? | ☐ Yes | ☐ No |
| v) Conduct lectures, films, etc., promoting or demonstrating business' products or service to a final consumer? | ☐ Yes | ☐ No |
| w) Conduct training courses or schools for your customers, agents, distributors, etc.? | ☐ Yes | ☐ No |
| x) Hold meetings? If yes, explain in detail the circumstances, including how often the meetings are held and who attends the meetings. | ☐ Yes | ☐ No |
| y) Perform engineering, consulting or design functions? | ☐ Yes | ☐ No |
| z) Provide sales or service manuals to customers, distributors, agents, etc.? | ☐ Yes | ☐ No |
| aa) Sell or represent other lines of merchandise besides yours? If yes, explain in detail. | ☐ Yes | ☐ No |
| bb) Engage in any other activities not fully explained by the above questions? If yes, explain in detail. . | ☐ Yes | ☐ No |

Part V. Other

1. Does your business have a toll free telephone number available for use by Montana residents? ☐ Yes ☐ No
If yes, please provide _____
2. How do your customers in Montana usually transmit their purchase order to your business?
- a) By mail? ☐ Yes ☐ No
- b) By handling it through your representative? ☐ Yes ☐ No
- c) Other? (specify) _____ ☐ Yes ☐ No
3. How are deliveries made into Montana?
- a) By common carrier? ☐ Yes ☐ No
- b) By your vehicle? ☐ Yes ☐ No
- c) If by vehicle, are such vehicles owned or leased by your business? ☐ Yes ☐ No
- d) Are deliveries to customers in Montana always made from an out-of-state location? ☐ Yes ☐ No
4. Does your business maintain a bank account in a bank in Montana? ☐ Yes ☐ No
5. Does your business provide intrastate or interstate communication service or equipment to Montana businesses or residents? ☐ Yes ☐ No
6. Does your business have a distribution center located in Montana? ☐ Yes ☐ No
7. Does your business operate a mobile store in Montana? ☐ Yes ☐ No
8. Does your business provide representatives or booths at trade shows in Montana? ☐ Yes ☐ No
9. Do you or any affiliates sell products into Montana via catalog sales or internet sales? ☐ Yes ☐ No
10. Do you provide services as a professional service provider (such as a law firm, accounting firm, etc.) in Montana? ☐ Yes ☐ No
11. Is the business a freight carrier? If yes, provide a detailed explanation of the miles traveled in Montana, the trips made into Montana, and the number of pickups and deliveries made in Montana for each year. ☐ Yes ☐ No
12. Does your business engage in any franchise operations in Montana? ☐ Yes ☐ No
13. Does the business license computer software for use in Montana? ☐ Yes ☐ No
14. Is the business or its affiliates involved in offering vehicle loans, personal loans, mortgages or credit cards to Montana residents? If yes, provide the name and FEIN of those companies and brief description of their business activities. ☐ Yes ☐ No
15. Does your business receive payments for the use of trademarks or trade names in Montana? ☐ Yes ☐ No
16. Do you or an affiliate own an interest in mineral rights in Montana, including interests in coal, oil or natural gas? ☐ Yes ☐ No
17. Does your business receive royalty payments and/or receipts from other intangibles in Montana? ☐ Yes ☐ No
18. Do any affiliates engage in any activities in this state that are listed in this questionnaire? If yes, indicate the company's name, FEIN and which activities it was engaged in. ☐ Yes ☐ No

Provide a detailed explanation for all questions that were answered yes. Refer to questions answered by part and number. In addition, include any other information that may be useful in determining if your business has a filing requirement in Montana. If the space provided is not sufficient, please include additional pages with references to applicable questions.

I declare, under the penalty of false swearing, that the information provided in this questionnaire and any accompanying schedules and statements is, to the best of my knowledge, true, correct and complete.

Date

Signature of Officer

Title

Written Name

Form NEXUS

What is the purpose of this form? This form is designed to assist the department in determining whether your entity's Montana activities are sufficient to require the payment of Montana income tax. Please do not simply assert the lack of nexus under Public Law 86-272 when completing the questionnaire.

We ask that those who are most familiar with the activities associated with each question complete and sign the questionnaire. The questions regarding employees refer only to those employees, sales representatives, and/or independent contractors who perform activities within Montana, regardless of each employee's domicile or office location. Our questions pertain to the employee's physical presence in Montana; they do not pertain to activities performed outside the state.

What is Public Law 86-272? For a state to tax income earned in interstate commerce, it must be able to show a connection – or nexus – between the state and the activities from which the income is derived. The federal Interstate Income Act of 1959, also known as Public Law 86-272, prevents a state from imposing an income tax on income derived within the state from interstate commerce if the only business activity within the state is the solicitation of orders for tangible personal property, provided that the orders are approved and filled outside the state.

To be exempt from taxation under the protection of Public Law 86-272, the activities of a foreign corporation within the state of Montana must be limited to the solicitation of orders within the state, the orders must be sent outside Montana for approval or rejection, and approved orders must be filled by shipment or delivery from a point outside Montana.

Please note that any sales that are made into Montana that are under the protection of Public Law 86-272 remain subject to throwback rules to the appropriate state that does have jurisdiction to impose its net income tax upon the income derived from those sales.

For additional information regarding Public Law 86-272, please refer to Administrative Rules of Montana 42.26.501 through 42.26.511.

Please note: If your activities in the state are not the sale of tangible personal property, you are not protected under the provisions of Public Law 86-272.

Instructions

If you answer "Yes" to any question on this form, you will have to include a brief explanation and any other applicable information in the space provided on the last page. Number each explanation to agree with the part and number of the question answered. Please include additional pages if needed.

Part I. General Questions

If you have communicated with a representative from the Department of Revenue, enter the representative's name on line 1.

You will need to answer all of the questions.

Part II. Sales

Answer all the following questions as they relate to the corporation's sales in Montana during the past ten years.

Part III. Property

Answer all the following questions as they relate to the corporation's property in Montana during the past ten years.

Part IV. Payroll

Answer all the following questions as they relate to the corporation's payroll in Montana during the past ten years.

Part V. Other

Answer all the following questions as they relate to the corporation's activities in Montana during the past ten years.

Mail this form to:

Montana Department of Revenue
Business Tax & Valuation
P.O. Box 5805
Helena, MT 59604-5805

Questions? Please e-mail us at DORNexus@mt.gov or call us toll free at (866) 859-2254 (in Helena, 444-6900).