



## Nexus Questionnaire

### Part I. General Questions

1. Department of Revenue Representative \_\_\_\_\_

2. Entity Information

Type of Business (please mark one box)	
<input type="checkbox"/> C Corp <input type="checkbox"/> S Corp <input type="checkbox"/> Partnership <input type="checkbox"/> Exempt from Tax <input type="checkbox"/> Other (Specify) _____	
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 <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	Period End Date (month and date only) <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/>
Montana Secretary of State ID Number <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	Date of Formation <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
State or Country of Formation	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.

3. Explain the nature of your overall business and give a description of the property and/or services sold \_\_\_\_\_

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. Describe your principle business activity in Montana \_\_\_\_\_

**Part I. General Questions - Continued**

8. List all the states in which you conduct business activities \_\_\_\_\_

9. 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 \_\_\_\_\_

10. 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)	_____	_____	_____	_____

11. Have you or an affiliate ever filed any Montana income tax returns? If yes, provide the date of last return, and name and FEIN under which the return was filed.....  Yes  No

Date \_\_\_\_\_ Name \_\_\_\_\_ FEIN \_\_\_\_\_

12. Have you or an affiliate ever filed any other tax returns in Montana (for example, withholding, lodging, 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.

13. 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, name and FEIN under which the business is registered (include additional pages if needed). .....  Yes  No

Agency _____	Name _____	FEIN _____
Agency _____	Name _____	FEIN _____
Agency _____	Name _____	FEIN _____

14. 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**

15. Have you received a letter from the Department of Revenue? If yes, provide the date and letter ID.....  Yes  No  
 Date \_\_\_\_\_ Letter ID \_\_\_\_\_

16. List the names and addresses of your three largest customers in Montana  
 a) \_\_\_\_\_  
 b) \_\_\_\_\_  
 c) \_\_\_\_\_

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

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

Tax Year Ended	Net Income
a) ____ / ____ / ____	\$ _____
b) ____ / ____ / ____	\$ _____
c) ____ / ____ / ____	\$ _____
d) ____ / ____ / ____	\$ _____
e) ____ / ____ / ____	\$ _____

19. 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? If yes, provide a brief description of position, nature and scope of duties and principal responsibilities. ....  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 use an independent contractor 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 contacting 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 business' 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?** We designed this form to help us determine 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 Montana sales that are under the protection of Public Law 86-272 remain subject to the throwback rules. These rules can apply if a state 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.

The requirements for an entity to obtain an FEIN are the same for both federal and Montana income tax purposes. Please refer to [irs.gov](http://irs.gov) for more information. If the entity does not have a federal employer identification number (FEIN), use the owner's FEIN or social security number (SSN) in question 3.

### Part II. Sales

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

### Part III. Property

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

### Part IV. Payroll

Answer all of the following questions as they relate to the corporation's payroll in Montana during the past ten years. If you have any employees or representatives working in Montana or Montana residents working on your behalf, provide a brief description of their position, nature and scope of duties and principal responsibilities.

### Part V. Other

Answer all of 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](mailto:DORNexus@mt.gov) or call us at (406) 444-6900.