



Nexus Questionnaire

[15-31-101, MCA](#) and [ARM 42.26.501](#)

Nexus
V2 6/2019

Please do not simply assert the lack of nexus under Public Law 86-272 when completing this questionnaire.

Did your company receive a letter from the Department of Revenue?

Yes Letter ID _____ Department of Revenue Representative _____

No

For what tax periods are you completing this NEXUS questionnaire? _____

Part I. Entity Information

Legal Name of Business		Contact Person	
Doing Business As Name		Contact Phone	
Street Address		Contact Email	
City/State/ZIP		Business Web Address	
Federal Employer Identification Number <input type="text"/> - <input type="text"/>		Date of Formation/Incorporation <input type="text"/>	State or Country of Formation/Incorporation
Montana Secretary of State ID Number <input type="text"/>		Period End Date <input type="text"/>	Date Business Began Activity in MT* <input type="text"/>
<p>Organization Type (mark one)</p> <p>a. <input type="checkbox"/> C Corporation e. <input type="checkbox"/> LLC</p> <p>b. <input type="checkbox"/> S Corporation f. <input type="checkbox"/> Disregarded Entity</p> <p>c. <input type="checkbox"/> Partnership g. <input type="checkbox"/> Sole Proprietorship</p> <p>d. <input type="checkbox"/> Trust If you selected e, f, or g, list owners below.</p> <p>SSN/FEIN _____</p> <p>Name _____</p>		<p>Federal Tax Return Type (mark one)</p> <p>a. <input type="checkbox"/> Form 1120 (C, F, L, REIT, SF, etc.)</p> <p>b. <input type="checkbox"/> Form 1120S</p> <p>c. <input type="checkbox"/> Form 1065</p> <p>d. <input type="checkbox"/> Form 1040 (Schedule C, E or F)</p> <p>e. <input type="checkbox"/> Form 1041</p> <p>f. <input type="checkbox"/> Filing under parent</p> <p>If you selected f, also mark your parent entity's return type and list their information below.</p> <p>FEIN _____</p> <p>Name _____</p>	

** 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.*

Part II. Overall Business Information

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

2. Please indicate all applicable business categories. If you don't fall into any listed categories, check other and specify.

- | | | |
|--|---|--|
| <input type="checkbox"/> Airline | <input type="checkbox"/> Franchise | <input type="checkbox"/> Telecommunications |
| <input type="checkbox"/> Broadcasting | <input type="checkbox"/> Oil and Gas | <input type="checkbox"/> Trucking |
| <input type="checkbox"/> Construction | <input type="checkbox"/> Railroad | <input type="checkbox"/> Other (Specify) _____ |
| <input type="checkbox"/> Financial Institution | <input type="checkbox"/> Service Provider | |

3. List all the states in which you conduct business activities. _____

4. Status of your business, (mark one box).
 Active Dormant Dissolved Non Survivor of Merger Other (Specify) _____
5. Are you the survivor of a merger with another business that was formerly a Montana taxpayer? Yes No
 If yes, provide the date of the merger, and the name and FEIN of the surviving and non-surviving businesses.
 Date _____ Survivor's Name _____ FEIN _____
 Non-Surviving Business Name _____ FEIN _____
6. In the past 5 years, did the business have any unrelated business income reportable on Federal Form 990-T? Yes No
7. Enter the net income (before net operating loss and special deductions, i.e., Line 28) on your federal tax return for the last five years.

	Tax Year End Date	Net Income
a.	<input type="text" value="MMDDYYYY"/>	\$ _____
b.	<input type="text" value="MMDDYYYY"/>	\$ _____
c.	<input type="text" value="MMDDYYYY"/>	\$ _____
d.	<input type="text" value="MMDDYYYY"/>	\$ _____
e.	<input type="text" value="MMDDYYYY"/>	\$ _____

Answer all the following questions as they relate to the business's activities in Montana during the past five 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.

Part III. Montana Specific Questions

1. Describe your principal business activity in Montana _____

2. List all related entities, subsidiaries, divisions, disregarded entities, brother/sister corporations, or parent corporations engaged in any activities within Montana (include additional pages if needed).
- | | Name | Relationship | Address | FEIN |
|----|-------|--------------|---------|-------|
| a. | _____ | _____ | _____ | _____ |
| b. | _____ | _____ | _____ | _____ |
| c. | _____ | _____ | _____ | _____ |
| d. | _____ | _____ | _____ | _____ |
| e. | _____ | _____ | _____ | _____ |
3. Do any related entities listed in this questionnaire engage in activities in Montana? Yes No
 If yes, please complete this questionnaire for each related entity with Montana activity.
4. Have you or a related entity ever filed any Montana income tax returns? Yes No
 If yes, provide the date of the last return, and the name and FEIN under which return was filed.
 Date _____ Name _____ FEIN _____

5. Have you or a related entity 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 a related entity have filed withholding returns in Montana, please provide a brief description of position, nature and scope of duties, and principal accountabilities of employees.
- _____

6. Are you registered with any other 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.)? Yes No
- If yes, provide the state agency, and name and FEIN under which the business is registered (include additional pages if needed).
- Agency _____ Name _____ FEIN _____
- Agency _____ Name _____ FEIN _____
- Agency _____ Name _____ FEIN _____
7. Are you a partner in a partnership which has operations, conducts business or owns property in Montana? Yes No
- If yes, provide the name and FEIN of the partnership with activity in Montana (include additional pages if needed).
- Name _____ FEIN _____
- Name _____ FEIN _____
- Name _____ FEIN _____

Part IV. Sales/Receipts (please see instructions for further clarification on this section)

Enter amount of sales/receipts for the last five years.

	Tax Year End Date	Total Everywhere Sales/Receipts	Total Montana Sales/Receipts
a.	MMDDYYYY	\$ _____	\$ _____
b.	MMDDYYYY	\$ _____	\$ _____
c.	MMDDYYYY	\$ _____	\$ _____
d.	MMDDYYYY	\$ _____	\$ _____
e.	MMDDYYYY	\$ _____	\$ _____

1. Did you derive any type of income from sources located in Montana (sales/receipts, fees for services, franchise fees, royalties, licensing fees, etc.)? Yes No
- If yes, please specify and answer questions a-d below. _____
- a. Do you solicit the sales/receipts of tangible personal or real property in Montana? Yes No
- b. Do you solicit sales/receipts of services or intangible property in Montana? Yes No
- c. Do you provide services in Montana? Yes No
- d. Did you sell real or intangible property? Yes No
2. Please provide an explanation of how sales/receipts are made in Montana. _____
- _____
- _____
3. Have sales/receipts to Montana customers been included in another state's sales/receipts factor? Yes No
- If yes, list the state(s). _____

4. Are you or any related entities involved in offering vehicle loans, personal loans, mortgages, or credit cards to Montana residents?..... Yes No
If yes, provide the name and FEIN of those companies and brief description of their business activities. _____
5. How do your customers in Montana usually transmit their purchase order to your business?
 a. By mail?..... Yes No
 b. Through your representative? Yes No
 c. By website/email? Yes No
 d. Other? (specify) _____
6. Do you or any related entities sell products into Montana via catalog sales/receipts or internet sales/receipts?..... Yes No
7. Do you provide services as a professional service provider (such as a law firm, accounting firm, etc.) in Montana? Yes No
8. Do you engage in any franchise operations in Montana? Yes No
9. Do you license computer software for use in Montana? Yes No
10. Do you receive payments for the use of trademarks or trade names in Montana?..... Yes No
11. Do you receive royalty payments and/or receipts from other intangibles in Montana?..... Yes No

Part V. Property

Enter the value of your property for the last five years.

Tax Year End Date	Total Everywhere Property	Total Montana Property
a. MMDDYYYY	\$ _____	\$ _____
b. MMDDYYYY	\$ _____	\$ _____
c. MMDDYYYY	\$ _____	\$ _____
d. MMDDYYYY	\$ _____	\$ _____
e. MMDDYYYY	\$ _____	\$ _____

1. Do you now have, or did you 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. Do you or an related entity hold title, or have you or a related entity ever held title, to any real or tangible property located or used in Montana? (such as merchandise inventory, motor vehicles, office or industrial equipment, land, etc.)?... Yes No
If yes, provide the locations and dates. _____
 a. In whose name was the property licensed or listed for tax purposes? (Include additional pages if needed.)
Name _____
3. Do you or any related entity lease or rent (or has it in the past leased or rented) any tangible property or real property located and/or used in Montana (such as warehouse space, motor vehicles, office space, industrial equipment, etc.)?..... Yes No
If yes, provide the locations and dates. _____
 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 property, services, or intangibles in Montana?.. Yes No
If yes, provide the location, dates, and description of property, service, or intangibles. _____
5. Do you now have, or have you ever had, consigned inventory in Montana?..... Yes No
6. Did title to any property, located in Montana, remain with you until the contract price was fully paid?..... Yes No

- 7. Do you maintain a security interest in any products sold or located in Montana? Yes No
- 8. Do you have title to goods present in Montana on trial or approval? Yes No
- 9. Do you have, or have you ever had, company-owned advertising material in Montana? Yes No
- 10. Do you pick up damaged or returned merchandise in Montana from customers in this state? Yes No
- 11. Were any contracts ever executed by you in Montana? Yes No
If yes, provide the location, dates and value of contracts. _____
- 12. Do you contract for the use or right to use any research facility situated in Montana? Yes No
- 13. Do you have contracts with third parties to build, install, repair, or service equipment or products in Montana? Yes No
- 14. Do you provide intrastate or interstate communication service or equipment to Montana businesses or residents? Yes No
- 15. Do you have a distribution center located in Montana? Yes No
- 16. Do you operate a mobile store in Montana? Yes No
- 17. Do you provide representatives or booths at trade shows in Montana? Yes No

Part VI. Payroll

Enter amount of payroll for the last five years

	Tax Year End Date	Total Everywhere Payroll	Total Montana Payroll
a.	MMDDYYYY	\$ _____	\$ _____
b.	MMDDYYYY	\$ _____	\$ _____
c.	MMDDYYYY	\$ _____	\$ _____
d.	MMDDYYYY	\$ _____	\$ _____
e.	MMDDYYYY	\$ _____	\$ _____

- 1. Do you have any employees in the state of Montana? Yes No
- 2. Does or did you have any employees or other representatives (resident or non-resident) who
 - a. solicit receipts in Montana? Yes No
 - b. perform services in Montana? Yes No
 - c. perform any other activities or otherwise act on your behalf in Montana? Yes No
 - d. work in states other than Montana? Yes No
If yes, provide the approximate percentage of their time in Montana _____ %
 - e. received any salaries, wages, fees, or commissions? Yes No
 - f. are Montana residents and did not perform any work in the state of Montana? Yes No
 - g. have a base of operations in another state, but whose duties include occasional calls upon customers or clients in Montana? Yes No
 - h. If yes to any of the above, provide the name, address, relationship, territory covered, and a description of position, nature, and scope of duties and principal accountabilities.

- 3. Do you have a standard form or written agreement with employees in Montana? Yes No
If yes, provide a copy for our review.

4. Do or did you 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
5. Do you 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) _____
6. Do employees or representatives maintain
- a. an in-home office in Montana? Yes No
(An office is considered in-home if it is located within the residence of the employee or representative.)
- b. an office other than an in-home office in Montana? Yes No
- c. If yes to questions 6(a) or 6(b) answer the following questions.
Do your employees or representatives:
- i. List it as a business address? Yes No
- ii. Receive business calls? Yes No
- iii. Store inventory? Yes No
If yes, provide the cost of inventory _____
- iv. Store samples there? Yes No
If yes, provide the cost of samples _____
- v. Use office equipment (computer, typewriter, furniture, etc.) supplied by the business?..... Yes No
If yes, provide the cost of equipment in Montana _____
- 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 order from customers
or for transporting orders outside of Montana for acceptance or rejection by the business?..... Yes No
7. Do employees or representatives engage in any of the following:
- 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/receipts of any items carried by them? Yes No
- e. Collect installments and/or delinquent accounts? Yes No
- f. Repossess the business' products?..... Yes No
- g. Authorize credits, warranty adjustments or repairs? Yes No
- h. Accept damaged or returned merchandise from customers? Yes No
If yes, do the employees or representatives resell the merchandise to other customers? _____
- i. Make adjustments for returned or damaged merchandise?..... Yes No
- j. Handle complaints, troubleshoot, or give advice other than transferring to headquarters? Yes No
- k. Periodically or occasionally service or repair equipment or property of your customers?..... Yes No
- l. Perform any installation or construction work?..... Yes No
- m. Supervise installation of business' products?..... Yes No
- n. Check inventories of customers or distributors in Montana?..... Yes No

- o. Inspect or have the right to inspect the marketing of your products or any use of your trademarks or tradenames?.... Yes No
- p. Plan dealer promotions? Yes No
- q. Arrange cooperative advertising agreements with customers?..... Yes No
- r. Investigate, recommend, or appoint potential dealers, agents, or distributors of the business?..... Yes No
- s. Call on dealer's customers accompanied by dealer's salesmen?..... Yes No
- t. Hire, train or supervise personnel? Yes No
- u. Conduct lectures, films, promoting or demonstrating business' products or service, etc., to a final consumer? ... Yes No
- v. Conduct training courses or schools for your customers, agents, distributors, etc.? Yes No
- w. Hold meetings? Yes No

If yes , explain in detail the circumstances, how often the meetings are held and who attends the meetings

- x. Perform engineering, consulting or design functions? Yes No
- y. Provide receipts or service manuals to customers, distributors, agents, etc.?..... Yes No
- z. Sell, or represent, other lines of merchandise besides yours?..... Yes No

If yes, explain in detail. _____

- aa. Engage in any other activities not fully explained by the above questions? Yes No

If yes, explain in detail. _____

Part VII. Other Questions

- 1. Do you maintain a bank account in a bank located in Montana?..... Yes No
- 2. Do you do any localized advertising (cooperative or otherwise) in Montana? Yes No
- If yes, provide the advertising media used. _____
- 3. Do you reserve the right to inspect the customer's facilities or the products after delivery? Yes No
- 4. Do you ever submit bids to potential customers in Montana in which you offer to sell goods or services based upon conditions specified therein?..... Yes No
- 5. Do you maintain a sample or display room for more than fourteen (14) days at any one location within Montana during the year? Yes No
- 6. Do you have a toll-free telephone number available for use by Montana residents? Yes No

If yes, please provide. _____

Part VIII. Industry Specific

- 1. Do you provide freight carrying services? Yes No
 - 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. _____
-

- 2. Do you or a related entity own an interest in mineral rights in Montana, including interests in coal, oil, or natural gas? Yes No
- 3. Do you engage in telecommunication activities within Montana? Yes No

If yes, please answer the following questions. _____

- a. Do you rent or own any property, capacity on cell towers, or any fiber-optics? Yes No
- b. Own or operate any call centers within the state of Montana?..... Yes No
- c. Offer call services to Montana residents either directly, or through a third party?..... Yes No
- d. Charge Montana residents for your services? (either on a call-by-call basis, or lump sum basis)..... Yes No

4. Were you or a related entity involved in a clinical trial, or observational study within Montana? Yes No
 If yes, please answer the following questions.
 a. What were the dates of the clinical trial(s)/observational study(ies)? _____
 b. What was your role in the clinical trial(s)/observational study(ies)? _____
-
5. Do you engage in railroad activity within Montana? Yes No
 If yes, please answer the following questions.
 Do you own or lease railcars used or located in Montana during the last 5 years? Yes No
 Do you own or lease railcars that were temporarily used by another railroad in Montana in the last 5 years? Yes No
6. Do you engage in airline activities within Montana? Yes No
 If yes, please answer the following questions.
 a. Do you participate in an interchange program with another participating airline where owned or rented aircraft is exchanged with other airlines? Yes No
 b. Do you have flights that originate, or land in the state of Montana? Yes No
 If yes, did you own the aircraft, and employ the crew? Yes No
7. Do you engage in television, radio, or broadcasting services within Montana? Yes No
 If yes, please answer the following questions.
 a. Do you have any rented studio space or equipment? Yes No
 b. Do you use the "audience factor" for calculating subscribers for tax purposes? Yes No
8. Is your business a financial institution? Yes No
 If yes, please answer the following questions.
 a. Do you provide loans secured by real property located in the state of Montana? Yes No
 b. Do you provide loans not secured by real property to Montana residents? Yes No
 c. Do you sell loans to other institutions? Yes No
 d. Do you collect card issuer's reimbursement fees? Yes No
 e. Do you collect fees from merchant discount on either credit card or debit card sales made in the state of Montana? .. Yes No
 f. Do you collect sales/receipts from Montana ATM fees? Yes No
 g. Do you collect sales/receipts from fees charged to a card holder if their billing address is in Montana? Yes No
 h. Do you collect loan servicing fees for loans with real property in the state of Montana, or loans to Montana residents? .. Yes No
 i. Do you have sales/receipts from the financial institution's investment assets and activity? Yes No
9. Do you engage in construction services within Montana? Yes No
 If yes, please answer the following questions.
 a. Do you have any contracts in the state of Montana that are longer than one year? Yes No
 b. Do you rent any equipment specifically to complete a Montana contract? Yes No
 c. Do you, or have you, hire(d) Montana employees to complete construction contracts? Yes No
 d. If yes to any of the above, provide the name, site address, job title, description of position, nature and scope of duties, and principal accountabilities for these employees _____

Form NEXUS

What is the purpose of this form? We use this form to determine whether your Montana activities require you to file a Montana tax return and pay any applicable tax.

What is Public Law 86-272? 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. 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.

To be exempt from taxation under the protection of Public Law 86-272, a business's activities within 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 throw out rules. These rules apply if a state does not 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 sections 42.26.501 through 42.26.511, Administrative Rules of Montana.

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

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.

If you answer "Yes" to any question on this form, include an explanation along with 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. Entity Information

Enter all the information pertaining to your entity with Montana activity.

The requirements to obtain a Federal Employer Identification Number (FEIN) are the same for both federal and Montana income tax purposes. Please refer to irs.gov for more information. If you do not have an FEIN, use the owner's FEIN or Social Security Number (SSN).

Organization Type

If you are an LLC, Disregarded Entity or Sole Proprietor list the name and FEIN/SSN of the owner in the space provided under part g.

Federal Tax Return Type

If you are a subsidiary of a parent corporation, list the name and FEIN of the parent corporation in the space provided under part f.

Part II. Overall Business Information

Answer all questions as they relate to your business structure. In question 3, please indicate your overall business category. If there are multiple categories that your business falls into please check all that apply. If you do not fall into any of the listed categories, please check the "other" box and list your business activity.

Part III. Montana Specific Questions

Answer all questions as they relate to your business activity within Montana.

Part IV. Sales/Receipts

Answer the following questions as they relate to your sales/receipts in Montana during the past five years. Montana statute has changed the terminology of "sales" to "receipts" the term "sales" is interchangeable with "receipts."

Part V. Property

Answer the following questions as they relate to your property in Montana during the past five years.

Part VI. Payroll

Answer the following questions as they relate to your employees in Montana during the past five years. These questions 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. 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 their duties and principal responsibilities.

Part VII. Other Questions

Answer the following questions as they relate to your activities in Montana during the past five years.

Part VIII. Industry Specific

Answer all of the questions as they relate to your activities in Montana during the past five years. These questions are very specific. If they do not pertain to your activity please check "no" and skip to the next question.

Mail this form to:

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

Questions? Please e-mail us at DORNexus@mt.gov, or call us at (406) 444-6900, or Montana Relay at 711 for hearing impaired.