

Multi-state Voluntary Compliance Program Policy & Procedure

This document details the procedures and policies that govern the Multi-state Voluntary Compliance Program (VCP) administered by the Multistate Tax Commission (MTC) on behalf of the participating states. Taxpayers may rely upon this document as the expression of the rules each state will apply to this program.

GENERAL INFORMATION

1. **Definition of Abusive Tax Shelter.** An Abusive Tax Shelter is a common name for a “tax avoidance transaction” or “abusive tax avoidance transaction.” A tax avoidance transaction (or abusive tax avoidance transaction) means any plan or arrangement devised for the principal purpose of avoiding state or federal income tax (and similar business activity taxes), and includes, but is not limited to, Listed Transactions as defined by the U.S. Internal Revenue Service (IRS). A Listed Transaction is a transaction that is the same or substantially similar to one that the IRS has determined to be a tax avoidance transaction and is so identified by IRS notice or other form of published guidance. An Abusive Tax Shelter may be, but is not necessarily, a “Reportable Transaction” as defined by the IRS. In addition, an Abusive Tax Shelter may affect only state taxes and would therefore be unaddressed by the IRS. See Instructions to IRS Form 8886 for information about Listed Transactions and Reportable Transactions.

2. **Definition of Voluntary Compliance Program.** The MTC Multi-state Voluntary Compliance Program (VCP) is a joint effort of participating states to offer taxpayers a single point of contact and a substantially uniform procedure with which to disclose participation in an Abusive Tax Shelter and to file amended returns (or initial returns if the failure to timely file was due to participation in an Abusive Tax Shelter) in exchange for a benefit, usually waiver of penalty. It is not voluntary disclosure, which is offered only to non-filers. It is not amnesty because it is limited to Abusive Tax Shelters.

POLICY & PROCEDURE

3. **Participating States.** The following states participate in this Voluntary Compliance Program.

1. Alabama	2. Alaska	3. Arizona	4. Arkansas
5. Colorado	6. Connecticut		7. Georgia
	8. Indiana	9. Iowa	
		10. Massachusetts	
11. Missouri		12. Montana	13. New Jersey
	14. Oklahoma	15. Oregon	
16. Rhode Island	17. Texas	18. Utah	19. Vermont
20. Washington		21. Wisconsin	

4. **Taxpayer Eligibility.** Eligible taxpayers are those that filed a tax return of a participating state using an Abusive Tax Shelter to reduce its taxable income or income tax liability, or did not file a tax return of a participating state as a consequence of participation in an Abusive Tax Shelter, and who otherwise meet the criteria of, and participate in, this program pursuant to this document, associated forms, and applicable state requirements.

Taxpayers may file an amended or initial return under this program only for a tax year with respect to which they have participated in an Abusive Tax Shelter. An initial return is permitted under this VCP only when the failure to timely file was due to participation in an Abusive Tax Shelter. Taxpayers may file initial or amended returns with respect to other issues, but they will not receive any benefit under this program. Benefits of this VCP are limited to those who amend a tax return (or file an initial tax return if the failure to timely file was due to participation in an Abusive Tax Shelter) to unwind participation in an Abusive Tax Shelter and otherwise meet the requirements of this program.

Taxpayers who failed to file a return in a state with respect to any tax year, but arguably should have, and whose failure to file was not due to employment of an Abusive Tax Shelter, may wish to consider voluntary disclosure to that state, either directly or through the MTC's multi-state voluntary disclosure program. Information is available at: <http://www.mtc.gov/Nexus.aspx?id=534>. Entities affiliated with a taxpayer that has participated in an Abusive Tax Shelter are not, merely by reason of that affiliation, eligible to participate in this program. They are, however, eligible to participate in this program with respect to a tax year if they have themselves participated in an Abusive Tax Shelter with respect to that tax year.

5. **Periods Covered.** Taxpayers may participate with respect to any period commencing before January 1, 2006.
6. **Taxpayer's Deadlines.** This Voluntary Compliance Program is in effect from May 1, 2007 until October 1, 2007. Taxpayers who wish to participate in this Voluntary Compliance Program, whether they received a letter from the MTC inviting their participation or they otherwise wish to participate, must present the required materials (by mail or otherwise) to the MTC at its headquarters address during business hours (8:30 AM - 5:30 PM EDT) on any business day that this Program is in effect. To be timely filed, materials must be actually received (not merely postmarked) while the Program is in effect. Untimely applications to participate in this Voluntary Compliance Program will not be honored.
7. **Selecting States.** Taxpayers may choose to participate with respect to any of the participating states. However, because this process, unlike voluntary disclosure, is not anonymous, states will have an opportunity to follow up with taxpayers who choose to not file the appropriate VCP returns in their states. It may therefore be in the taxpayer's interest to participate with respect to all states in which there is potential Abusive Tax Shelter liability.

- 8. Summary of Taxpayer Requirements.** To participate and receive the State Benefit (see specific State Benefits), an eligible taxpayer must submit the following:
- a. form MTC-VCP-1;
 - b. amended or initial return(s) for any tax year(s) beginning before January 1, 2006, with the tax calculated without use of the Abusive Tax Shelter (initial returns are permitted only when failure to timely file was due to participation in an Abusive Tax Shelter); each return must have “MULTI-STATE VCP” written boldly and conspicuously at the top of its first page, preferably in red marker;
 - c. payment of tax due as a result of the return(s); and
 - d. fully completed IRS Form(s) 8886 for each Abusive Tax Shelter generating an amended return (or initial return if failure to timely file was due to participation in an Abusive Tax Shelter).

Submit materials to the MTC’s headquarters address: Multi-state Voluntary Compliance Program, 444 North Capitol Street, NW, Suite 425, Washington, DC 20001. See #6 regarding deadlines.

A taxpayer may, at its option, include applicable interest (and penalty, if any) in its submission. If applicable but not included, the state will issue a bill for interest (and penalty, if any).

- 9. Description of Abusive Tax Shelter.** The taxpayer must describe the Abusive Tax Shelter on the 2005 or later version of IRS Form 8886 (Reportable Transaction Disclosure Statement), providing a concise but comprehensive description of the Abusive Tax Shelter. Attach additional sheets if necessary. The description must contain enough detail so that the state can fully understand how the Abusive Tax Shelter works, and should include citations to applicable code sections, if appropriate. It should not contain tangential information that is unlikely to aid in comprehending the Abusive Tax Shelter. If applicable, a transaction may be fully described by citation to the IRS publication in which it is described. A transaction may be an Abusive Tax Shelter for purposes of this program even if it is not described by any of the check boxes in Section 2 of Form 8886.

Failure to provide a concise but comprehensive description of the Abusive Tax Shelter will disqualify the taxpayer from participation in this program. However, because the participating states recognize that it is not possible to define in advance what constitutes in all situations a concise but comprehensive description, states will provide taxpayers an additional opportunity to provide a concise but complete description in the event the initial description does not meet the state’s understanding of the requirement. Taxpayers unsure of what constitutes a concise but complete description should make a good faith effort to comply initially and be prepared to provide additional information upon request by the state or the MTC.

To the extent that the information in Form 8886 and attachments, if any, is identical with respect to years and states involved, the taxpayer may submit a single Form 8886 with attachments, if any, to cover all VCP years and all participating states. A separate Form 8886 must be used to the extent that the information varies by year or state.

10. **Identification of Promoter.** The taxpayer must include on IRS Form 8886, or an attachment thereto, the names and addresses of the persons and organizations that sold or promoted for a fee the Abusive Tax Shelter schemes in which the taxpayer was involved. The taxpayer must also include any information it may have presently in its possession with respect to the identity of any person or organization that advised the solicitor or promoter with respect to the transaction. The taxpayer must provide all other information requested by Form 8886 as well.
11. **Taxpayer Benefit.** The MTC maintains a list of the benefits offered by each state to participating taxpayers. The list is posted on the MTC web site: www.mtc.gov. Each participating state agrees to provide the benefit listed for that state in exchange for taxpayer participation in this program. States offer these benefits under their existing administrative authority. Each state will apply its own policy with respect to the manner and timing of its communication with the taxpayer regarding receipt of the offered State Benefit.
12. **Claim for Refund.** As a condition of participation in this Multi-state Voluntary Compliance Program, and in consideration for receipt of the State Benefit listed on MTC-VCP-2, the participating taxpayer irrevocably waives any and all right of appeal (right to file a claim for refund) with respect to tax paid as a result of the filing of an amended return (or an initial return if no return was timely filed due to use of an Abusive Tax Shelter) under this Multi-state Voluntary Compliance Program, except to the extent a timely filed appeal (or claim for refund) results from a U.S. Internal Revenue Service Revenue Agent's Report.
13. **Confidentiality of Taxpayer Information.** Amended and initial returns and all associated information will be protected pursuant to the confidentiality laws of the applicable state. Pursuant to exchange of information agreements, some or all of this information will be exchanged among the MTC and states, possibly including states not participating in this Multi-state Voluntary Compliance Program, and with the US Internal Revenue Service. This policy differs from the MTC's voluntary disclosure policy, which prohibits all disclosure of taxpayer information except to a state with which the taxpayer has concluded an agreement and then only information pertaining to that state.
14. **VCP Address.** A taxpayer should mail or deliver its amended or initial returns, Forms 8886, and payments to the Multistate Tax Commission, Multi-State Voluntary Compliance Program, 444 North Capitol Street, NW, Suite 425, Washington, DC 20001. Checks should be made payable to the appropriate state officer or department. Write "Multi-state VCP" boldly and conspicuously at the top of each return, preferably in red marker. A taxpayer should not mail a return to the address on the return. The MTC will forward the returns to the correct address in each state to ensure proper processing and benefit to the taxpayer.
15. **Applicable Law.** The laws, regulations, and policies of a state participating in this program govern participation with respect to that state.
16. **VCP Contact for Taxpayers.** Taxpayers may e-mail questions about this program to VCP@mtc.gov or phone (202) 624-8699 or write to Voluntary Compliance Program c/o Multistate Tax Commission, 444 North Capitol Street, Washington DC 20001.

