SOUTH CAROLINA DOR DEPARTMENT OF REVENUE

NX-100 Instruction Guide

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What is Nexus?

Nexus is a sufficient connection between South Carolina and a taxpayer which allows the state to impose its taxing jurisdiction on that taxpayer. This could include an activity, transaction, or property. A taxpayer may have nexus for one or more tax types.

A taxpayer with nexus in South Carolina is required to file returns and pay any taxes that are due with the SCDOR.

The fastest, easiest way to complete the Business Activities Questionnaire (NX-100) is using MyDORWAY, our free online tax portal. Get started by visiting **MyDORWAY.dor.sc.gov** and clicking **Nexus Questionnaire**.

You can also submit a paper version of the Business Activities Questionnaire (NX-100) using the address listed on the form. Paper forms are available at **dor.sc.gov/forms**.

What is the Business Activities Questionnaire?

The Business Activities Questionnaire (NX-100) is used to ask a business about its activities within South Carolina to determine if it has nexus, which creates a legal obligation to collect and pay taxes to South Carolina.

Instructions

The Business Activities Questionnaire (NX-100) is based solely on the company's interpretation of information. Those that are most familiar with the activities associated with the entity should complete and sign the questionnaire. **Questionnaires are considered invalid without all office and tax identifying information**.

Related Revenue Rulings

The following nexus-related Revenue Rulings are available at **dor.sc.gov/policy**:

- **RR #08-1** - Nexus (Income Tax)
- **RR #14-4** - Nexus Creating Activities for Sales and Use Taxes
- **RR #16-11** - Nexus Creating Activities for Income Tax
- **RR #18-14** - Retailers Without a Physical Presence ("Remote Sellers")- Economic Nexus
- **RR #97-15**- Protected Activities (Public Law 86-272)

Public Law 86-272

Public Law 86-272 protects a business from Income Tax nexus if its only business activity within the state consists of the solicitation of orders for sales of tangible personal property; and those orders are sent outside the state for acceptance or rejection, and if the orders are accepted, they are filled by shipment or delivery from a point outside the state. For more information, see Revenue Ruling #97-15.

Part A: General Information

Enter all information pertaining to your entity with South Carolina activity.

Federal Employer Identification Number (FEIN)

The requirements to obtain the FEIN are the same for both federal and South Carolina Income Tax purposes. Visit **irs.gov/ein** for more information. If you do not have an FEIN, use the owner's FEIN or Social Security Number (SSN).

What Type of Business Entity to choose on line 3:

Reviewing the following documents can help you determine your business entity type:

- If your business is registered as a corporation or LLC with the state Secretary of State's Office, their website will list your official classification, including your status as a foreign or domestic business.
- If your business is a corporation, its Articles of Incorporation establish your entity type.
- If your business is a partnership, the Partnership Agreement document outlines the terms of your partnership, including details about ownership, control, and profit/loss distribution.
- Review the federal business tax returns you file with the IRS, which uses different forms for different entity types.

Consolidated returns and disregarded LLCs:

- If your business is included on a consolidated South Carolina return, choose YES on line 8.
- If your business is a disregarded LLC, choose YES on line 9.
- If you choose YES on line 8 or line 9 , you must list the parent company's name and FEIN on line 10.

What to include on line 11:

When describing the nature of your business, please include if your business:

- provides a business or service
- is a manufacturer, wholesaler, or retailer
- owns or leases property
- stores goods or property in public or private warehouses or facilities
- has employees, agents, or contractors that make sales in South Carolina
- is a nonprofit organization
- brings materials or property to South Carolina for use or consumption in the performance of a service or to fulfill a construction contract

Part B: Financial Information

What are Gross Receipts?

Gross receipts are the total income a business or organization receives from all sources during a specific accounting period, before any deductions are made.

Part C: South Carolina Business Activities

How is Income Tax Nexus in South Carolina determined?

For Income Tax purposes, economic nexus is generally sufficient to create nexus even without a physical presence in the state. Income Tax nexus can be created by:

- Employees, agents, brokers, representatives, subcontractors, etc. working on behalf of the entity within South Carolina. Nexus creating activities of employees and representatives can range from soliciting sales to performing services for any length of time.
- The presence of property such as goods, offices, real estate, vehicles, etc. physically within South Carolina.

This could include C and S Corporations, Partnerships, Limited Liability, Companies, and Sole Proprietors.

An employee working remotely from their home in South Carolina can create a connection sufficient to require the employer to pay South Carolina taxes.

When do Remote Sellers have South Carolina nexus?

- Remote Sellers have **economic** nexus in South Carolina when they have no physical presence in South Carolina, but their gross sales of tangible personal property, products transferred electronically, and services delivered into South Carolina exceeds $100,000 in the previous or current calendar year.
- Remote Sellers have physical nexus in South Carolina when they directly, or through a subsidiary:
  - maintain an office, distribution house, sales house, warehouse, or other place of business in South Carolina.
  - employ an agent operating within South Carolina under their authority, regardless of whether the agent is located in South Carolina permanently.

This is the case regardless of whether the retailer or subsidiary is qualified to do business within South Carolina.

How is Sales and Use Tax Nexus in South Carolina determined?

For Sales Tax purposes, a taxpayer that has a physical presence in the state has nexus.

Activities that the company employees or a third party performs in South Carolina

If any activity is marked in #9 the entity is not considered a remote seller, and the remote seller threshold does not apply.

Officer Information

Before signing this form the information must be complete and correct. To willfully furnish a false or fraudulent statement to the SCDOR is a crime.

Incomplete or unsigned submissions will not be processed.

Questions? We're here to help. Contact us at **SCNexus@dor.sc.gov.**