

2009 Schedule U-MTI Instructions

Member's Taxable Income from Sources Other Than the Unitary Business

This schedule reports income from sources other than the unitary business.

A corporation that is a member of a combined group filing a combined report under M.G.L. c. 63 § 32B may have taxable income or loss that is from sources other than the combined group's unitary business (e.g., allocable income from non-business investment activity or apportionable income that derives from sources other than the combined group's unitary business). In such cases, where the member is a taxable member and no affiliated group election has been made and the taxable member has the same taxable year as the combined group, the member's taxable income from the sources other than the unitary business is to be reported on Schedule U-MTI.

In any case where the members of the combined group are subject to an affiliated group election, all of the income of the group is considered to be income from the activities of such group. Therefore, in such cases, for reporting purposes, there is no distinction between income of the group members that derives from the activities of the group's unitary business and income of the group members that derives from sources other than the group's unitary business. **Consequently, no member of the combined group should file Schedule U-MTI if the combined group is subject to an affiliated group election for the taxable year at issue.**

Where a combined group is not subject to an affiliated group election, a taxable member of the group that has income from sources other than the group's unitary business on which the member is taxable in Massachusetts must separately account for that income. Before calculating its income excise, each such member must combine its apportioned share of income or loss from the combined group's unitary business with the total of the member's separate income or loss allocated or apportioned to Massachusetts from its non-unitary business activities, offsetting gains and losses recognized in the same tax year to the extent allowed by Massachusetts law and the Internal Revenue Code.

Schedule U-MTI reports the non-unitary business income and deductions of a taxable member of a combined group except in cases in which the taxable member has a tax year end that differs from the tax year end of the combined group. See below for a discussion of the latter such circumstances.

Examples of amounts that are to be reported on the Schedule U-MTI include:

- Allocable non-business investment income of a taxable member that is a Massachusetts domiciliary corporation;
- Income from a business conducted by the member that is separately taxable in Massachusetts but where that business does not form part of the combined group's

unitary business, including partnership income that is separately apportioned under the provisions of 830 CMR 63.38.1;

- Income from a portion of the member's tax year in which the member's activities (unlike its activities from the remainder of such year), were not a part of the combined group's unitary business.

A taxable member of a combined group that has income taxable in Massachusetts from a source other than the unitary business may be required to file multiples of Schedule U-MTI if different apportionment percentages apply to the member's different streams of income. Because allocable investment income is not subject to apportionment, a taxable member that is domiciled in Massachusetts should file a single Schedule U-MTI to report all of its allocable investment income. Where a taxable member of a combined group is required to file Schedule U-MTI, the member's separate income, and the deductions that relate to that income which are required to be reported on Schedule U-MTI, must be excluded from the combined group's income calculation.

The totals, by line item, of the amounts reported on Schedule U-MTI must match the amounts referenced in column e of Schedule U-M, as filed by the taxable member.

Members with a Different Fiscal Year from That of the Combined Group

The taxable members of a combined group must determine their apportioned share of the combined group's taxable income based on a common tax year, i.e., the combined group's taxable year, and pay the tax on this apportioned income with the combined report as filed by the group. If the tax year of a taxable member does not end on the same date as the combined group's taxable year and the combined group is not subject to an affiliated group election, the member must report and pay the tax due on its income from sources other than the combined group's unitary business after the close of the member's separate tax year. Such a taxpayer does not file Schedule U-MTI but rather must report its separate income on the appropriate schedule of whichever return (i.e., Form 355 or 355S) it is required to file at the end of its separate tax year.

As noted, in some cases a member of a combined group may have income or loss that derives from sources other than the group's unitary business and therefore may be required to report that income using its own tax year and not that of the combined group. In such cases, if the member is a business corporation within the meaning of chapter 63, it may apply a net operating loss that derived from the operation of the unitary business against its income as derived from the sources other than the group's unitary business (or vice versa) by applying the Net Operating Loss (NOL) carry forward derived from the activities of the combined group to its income as reported on its subsequent, separate tax filing (or alternatively by applying the NOL derived from its separate activities to its income as reported on its subsequent, combined filing). A NOL can only be applied to the member's next such tax filing or filings as stated, as a NOL can only be carried forward and cannot be carried back.

Capital losses cannot be carried forward or back and therefore cannot be applied as between the different taxable years pursuant to which an individual taxable member of a combined group

may be reporting its unitary business income and its other, non-unitary business income. The deduction of a NOL carry forward must in all cases be consistent with the requirements and limitations that apply to such carry forwards, including the rule that in no instance can a utility corporation or financial institution carry forward a NOL. See 830 CMR 63.32B.2 (8).

Header for Schedule U-MTI

For each Schedule U-MTI filed, enter the name of the member (as stated on its federal income tax return, if filed), its Federal Identification number and the beginning and ending dates of the group's tax year. Also enter the name and Federal Identification number of the principal reporting corporation.

Line & Column Instructions

Line 1 through Line 11. Enter the amounts to be referenced are the amounts of income, by line, attributable to the non-unitary business activity that is being reported. This income should have previously been excluded from the unitary group's business income in column e on Schedule U-M. The amounts reported in lines 1 through 10 of Schedule U-MTI must match the amounts reported on Schedule U-M, column e, lines 1 through 10. Line 11 must equal the total of lines 3 through 10.

Line 12. Report the total of all deductions that are included in the amounts set forth on lines 12 through 26 of U.S. Form 1120 that are attributable to sources other than the combined group's unitary business. These amounts must be excluded from the corresponding items to be made on Schedule U-M for the purpose of determining the deductions from group income.

Line 14. A taxpayer must add back to net income any related member intangible expenses and costs, including losses incurred in connection with factoring or discounting transactions. [Note that the use of intellectual property owned by related parties taxable under chapter 63 that are also members of the combined group suggest that the activity is part of the unitary business.]

Line 15. A taxpayer must add back to net income any related member interest expenses and costs, including losses incurred in connection with factoring or discounting transactions.

Line 16. The amounts to be reported here include any adjustment required to the income or expenses reported in lines 1 through 13 with respect to differences between the calculation of Massachusetts and federal net income.

Line 18. Where either a financial institution or a business corporation, as determined under the provisions of chapter 63, receive a dividend from another corporation in which it owns at least 15% of the voting stock, it is entitled to a 95% dividends received deduction if the statutory requirements are otherwise met. See M.G.L. c. 63, § 1 or 38. Where a utility corporation receives a dividend from another utility corporation in which it owns at least 80% of the stock, it is entitled to 100% exclusion for such dividends received. See M.G.L. c. 63, § 52A. To the extent that the dividends for which the deduction is claimed are included in the amounts reported on Schedule U-MTI, the dividends received deduction is to be claimed on line 18. The corporation

claiming the deduction must also complete and enclose Schedule U-DRD, and, in so doing, should reference the unitary business identifier on such Schedule U-DRD as “0”. The amount of the deduction claimed must not exceed the amount stated on line 4 of Schedule U-MTI.

Line 19. If one or more members of the combined group has paid or accrued intangible expenses or costs to any related entity and qualifies to deduct these expenses under c. 63 § 31I and 31K, enter the amount of the deduction claimed here and complete and enclose Schedule ABIE (in so doing, reference the unitary business identifier on such Schedule ABIE as “0”). No deduction is allowed for any amount that is not added back to income on line 14 of Schedule U-MTI. Further, the amount of the deduction claimed must not exceed the amount stated on line 14 of Schedule U-MTI.

Line 20. If one or more members of the combined group has paid or accrued interest expenses or costs to any related entity and qualifies to deduct these expenses under c. 63 § 31J and 31K, enter the amount of the deduction claimed here and complete and attach Schedule ABI (in so doing, reference the unitary business identifier on such Schedule ABIE as “0”). No deduction is allowed for any amount that is not added back to income on line 15 of Schedule U-MTI. Further, the amount of the deduction claimed must not exceed the amount stated on line 15 of Schedule U-MTI.

Line 21. The “other adjustments” to be included on this line include basis adjustments and any other state-federal tax differences not previously taken into account. See 830 CMR 63.32B.2 (6) (c). Enter any amount that reduces Massachusetts income as a positive amount.

Line 22. Subtract the total of lines 18 through 21 from the amount on line 17.

Line 23. If a member that is not a financial institution or a utility corporation has an NOL carry forward from a pre-combination tax year (including any year beginning prior January 1, 2009), or an NOL derived from non-unitary business activity in any year, enter the amount of the allowable deduction under 830 CMR 63.30.2. The amount of the deduction must match the amount stated on Schedule U-NOL, line 58(a). Do not enter any amount with respect to an NOL derived from a combined report filed in a prior year; those losses are deducted on a post-apportionment basis on Schedule U-ST. To the extent that an NOL deduction on line 23 was deducted from net capital gain, the amount on line 25 must reflect such deduction.

Line 25 Enter the amount of capital gain or loss that is included in line 24. To the extent that adjustments set forth on this schedule represent adjustments to the member’s capital gain or loss as reported on a member’s U.S. tax return, the amount of capital gain or loss to be stated on this line 25 must also be adjusted.

Line 26. Enter the amount of section 1231 gain or loss that is included in line 24. To the extent that adjustments set forth on this schedule represent adjustments to the member’s section 1231 gains or losses as reported on a member’s U.S. tax return, the amount of section 1231 gain or loss to be stated on this line 26 must also be adjusted. To the extent that the NOL deduction on line 23 was deducted from section 1231 gain, the amount on line 26 must reflect such deduction.

Line 27. Subtract the amounts on lines 25 and 26 from the amount on line 24.

Line 28. Enter the apportionment percentage to be applied to the income reported on lines 24, 26 and 27. The apportionment percentage to be applied to this income must be determined based upon the member's property, payroll and sales/receipts that relate to such income. The property, payroll and sales/receipts that are used to apportion the member's non-unitary business income must also be excluded from both the numerator and the denominator of the apportionment calculation used to apportion combined group's unitary business income (i.e., on Schedules U-E and U-MSI). If the member's non-unitary business income is not taxable in any other state, enter 1.00 on this line.

Line 29. Multiply line 27 by line 28. Round to the nearest whole dollar amount.

Line 30. Multiply line 25 by line 28. Round to the nearest whole dollar amount.

Line 31. Multiply line 26 by line 28. Round to the nearest whole dollar amount.