



Schedule ABIE

Exceptions to the Add Back of Intangible Expenses

2012

Massachusetts
Department of
Revenue

Enclose this schedule to claim an exception to the requirement under MGL, Ch. 63, sec. 31I and 31K to add back to net income related member intangible expenses and costs, including losses incurred in a factoring or discounting transaction. Complete a separate schedule for each transaction with a related member as to which an exception is claimed.

Taxpayer Information

Taxpayer name	Federal Identification number	For tax year beginning	Ending
Related member reporting the income	Federal Identification number	For tax year beginning	Ending
Name of jurisdiction(s) in which related member is taxed on net income (if applicable)	Unitary business identifier		
Principal reporting corporation (if applicable)	Federal Identification number	For tax year beginning	Ending

Deduction claimed is taken on:

☐ Form 355U, Schedule U-E ☐ Form 355U, Schedule U-MTI ☐ Form 355 or 355S, Schedule E ☐ Other

Total Exceptions Claimed

1	Enter amount from Exception 1, line 7	1	
2	Enter amount from Exception 2, line 15f	2	
3	Enter amount from Exception 3, line 1	3	
4	Enter amount from Exception 4, line 1	4	
5	Total add back exception claimed. Add lines 1 through 4. Enter here and on appropriate corporate return.	5	

Exception 1. Full exception for direct or indirect intangible expense or cost paid, accrued, or incurred to a related member that is taxed at a similar rate.

1	Amount of deductible intangible expense or cost claimed by taxpayer	1	
2	Actual tax rate applied to taxpayer (from Forms 355, 355U, 355S, 63FI, or P.S.1)	2	
3	Enter the tax rate(s) applied to the corresponding income from intangibles from the related member's return(s). Do not enter the tax rate of a jurisdiction in which the related member is filing with the taxpayer on a combined or unitary basis:		
a		b	
c		d	
e			
4	Provide related member apportionment percentage(s) for the jurisdiction(s) referenced in line 3. Enter "1" if the related member is taxable in only one jurisdiction and therefore not subject to apportionment:		
a		b	
c		d	
e			
5	Multiply line 3 by line 4. Where the related member is taxed in more than one jurisdiction, multiply the respective responses in lines 3 and 4:		
a		b	
c		d	
e			
	Add lines 5a through 5e	5f	
6	Subtract line 5f from line 2	6	
7	Exception amount claimed. If line 6 is equal to or less than .03, enter the amount from line 1 here and in Total Exceptions Claimed, line 1. Otherwise, enter "0"	7	

Exception 2. Partial exception for direct or indirect intangible expense or cost paid, accrued, or incurred to a related member.

Do not complete this section if you have claimed Exception 1 as to the same intangible expense or cost add back.

Complete this section only if the intangible expense was reported as income by the related member and, if applicable, the tax reported by the related member on that return exceeded the minimum tax.

1	Amount of deductible intangible expense or cost claimed by taxpayer	1	
2	Taxpayer's apportionment percentage from the apportionment schedule, line 5. Enter "1" if an apportionment schedule was not filed.	2	
3	Multiply line 1 by line 2	3	
4	Tax rate applied to taxpayer (from Forms 355, 355U, 355S, 63FI, or P.S.1)	4	
5	Multiply line 3 by line 4	5	
6	Total intangible expense or cost incurred to related member by all other related members including the taxpayer for the use of the intangible property	6	
7	Divide line 1 by line 6	7	
8	For each of the jurisdictions where the related member is taxed, enter the related member's net income. Do not enter any amount for a jurisdiction in which the related entity is filing with the taxpayer on a combined or unitary basis:		
a		b	
c		d	
e			
9	Multiply line 8 by line 7. Where the related member is taxed in more than one jurisdiction, multiply line 7 by the response for each jurisdiction in line 8 and place the response in the box that corresponds to the response in line 8:		
a		b	
c		d	
e			
10	For each of the jurisdictions referenced in line 8, enter either the amount from line 1 or the amount from line 9, whichever amount is lower:		
a		b	
c		d	
e			
11	Provide related member apportionment percentages for the jurisdiction(s) referenced in line 8. Enter "1" if the related member is taxable in only one jurisdiction and therefore not subject to apportionment:		
a		b	
c		d	
e			
12	Multiply line 10 by line 11. Where the related member is taxed in more than one jurisdiction, multiply the response for each jurisdiction in line 10 by the response that corresponds to the response for that jurisdiction in line 11:		
a		b	
c		d	
e			
13	For each of the jurisdictions referenced in line 8, enter the tax rate(s) applied to the related entity:		
a		b	
c		d	
e			
14	Divide each of the rates entered in line 13 by the rate entered in line 4. Enter no more than "1":		
a		b	
c		d	
e			
15	Exception amount claimed. Multiply line 12 by line 14. Where the related member is taxed in more than one jurisdiction, multiply the response for each jurisdiction in line 12 by the response that corresponds to the response for that jurisdiction in line 14, and total. Enter the result here and in Total Exceptions Claimed, line 2:		
a		b	
c		d	
e			
Add lines 15a through 15e		15f	

Exception 3. Exception based on supporting statement for direct or indirect intangible expense or cost paid, accrued or incurred to a related member.

The taxpayer must prepare with its tax return and make available to the Commissioner upon request a supporting statement prepared in accordance with the Department's public written statements. All double tax exception claims must be made by answering the questions set forth in Exception 1 or 2.

Check the basis for this claim:

- ☐ Business purpose/economic substance
☐ Section 31K foreign treaty exception
☐ Conduit exception

- 1** Amount of deductible intangible expense or cost claimed by taxpayer. Enter the result here and in Total Exceptions Claimed, line 3 **1**
- 2** Name of the related member to which the taxpayer paid, accrued or incurred the intangible expense or cost
- 3** FID of the related member to which the taxpayer paid, accrued or incurred the intangible expense or cost **3**
- 4** Name the type of intangible asset for which the expense or cost is being paid, accrued or incurred (e.g., trademarks, a patent, etc.). If more than one, name the type of asset that resulted in the biggest cost or expense
- 5** If the intangible expense or cost was paid as a percentage of income or receipts, enter the percentage (if the rate is variable, enter the effective rate for the period covered by this tax return) **5**
- 6** If the intangible expense or cost was paid, accrued or incurred pursuant to an arrangement or agreement with a fixed term, enter the termination date **6**
- 7** If the intangible expense or cost was paid, accrued or incurred pursuant to a written contract, enter the contract date **7**
- 8** If the amount of the intangible expense or cost is the result of or supported by a written study or appraisal, enter the date of the study or appraisal **8**
- 9** If the taxpayer is seeking the section 31K exception, enter the name of the foreign nation in which the related member is resident **9**
- 10** Did the taxpayer assert an add back exception in connection with the arrangement, agreement or contract on its Massachusetts return for a prior year?
☐ Yes ☐ No
- 11** Was the intangible expense or cost actually paid (e.g., as opposed to accrued)? ☐ Yes ☐ No
- 12** If the answer to question 11 is yes, was the amount paid substantially returned to the taxpayer, either directly or indirectly, during the tax year (e.g., through the means of a dividend, loan, etc.)? ☐ Yes ☐ No
- 13** Was the underlying transaction entered into in whole or in part on the advice of a tax advisor? ☐ Yes ☐ No
- 14** Was reduction of tax a principal purpose for the underlying transaction? ☐ Yes ☐ No
- 15** Were the intangible assets referenced in answer 4 primarily developed by the taxpayer? ☐ Yes ☐ No
- 16** Were the intangible assets referenced in answer 4 primarily developed by the related member? ☐ Yes ☐ No
- 17** Were the intangible assets referenced in answer 4 acquired by the related member from an unrelated party? ☐ Yes ☐ No
- 18** The taxpayer may use the space below to provide greater detail concerning its Exception 3 claim.

Exception 4. Exception based on supporting statement for loss incurred in a factoring or discounting transaction with a related member.

The taxpayer must prepare with its tax return and make available to the Commissioner upon request a supporting statement prepared in accordance with the Department's public written statements. All double tax exception claims must be made by answering the questions set forth in Exception 1 or 2.

Check the basis for this claim:

- ☐ Business purpose/economic substance
☐ Section 31K foreign treaty exception

- 1** Amount of deductible discounting or factoring loss claimed by taxpayer. Enter the result here and in Total Exceptions Claimed, line 4 **1**
- 2** Name of the related member to which the taxpayer incurred the discounting or factoring loss
- 3** FID of the related member to which the taxpayer incurred the discounting or factoring loss **3**
- 4** If the discounting or factoring loss was pursuant to an arrangement or agreement with a fixed term, enter the termination date **4**
- 5** If the discounting or factoring loss was incurred pursuant to a written contract, enter the contract date **5**
- 6** If the amount of the discounting or factoring loss is the result of or supported by a written study or appraisal, enter the date of the study or appraisal **6**
- 7** If the taxpayer is seeking the section 31K exception, enter the name of the foreign nation in which the related member is resident **7**
- 8** Did the taxpayer assert an add back exception in connection with the arrangement, agreement or contract on its Massachusetts return for a prior year?
☐ Yes ☐ No
- 9** Was the structure used to effect the discounting or factoring transaction(s) entered into in whole or in part on the advice of a tax advisor? ☐ Yes ☐ No
- 10** Was reduction of tax a principal purpose for the structure used to effect the discounting or factoring transactions or the transactions themselves?
☐ Yes ☐ No
- 11** Were some or all of any receivables sold in the discounting or factoring transaction(s) generated by the taxpayer in the ordinary course of its business?
☐ Yes ☐ No
- 12** Were some or all of any receivables sold in the discounting or factoring transaction(s) originally acquired by the taxpayer from another party?
☐ Yes ☐ No
- 13** Was the discounting or factoring loss incurred as part of an attempt by the taxpayer or a related member to securitize the underlying receivables?
☐ Yes ☐ No
- 14** If the answer to the above question is yes, does the taxpayer service the receivables? ☐ Yes ☐ No
- 15** Does the taxpayer initiate or pursue any activities on delinquent accounts? ☐ Yes ☐ No
- 16** The taxpayer may use the space below to provide greater detail concerning its Exception 4 claim.
