

## **2013 FORM 355U and Accompanying Schedules**

### **Who Must File a Combined Report ?**

For tax years beginning on or after January 1, 2009 Massachusetts requires certain corporations engaged in a unitary business to calculate their income on a combined basis. A corporation is subject to this requirement if it is subject to a tax on its income under Massachusetts General Law (M.G.L.) c. 63, § 2, 2B, 32D, 39 or 52A and it is engaged in a unitary business with one or more other corporations under common control, whether or not the other corporations are taxable in Massachusetts. The requirement to file on a combined basis is not dependent upon an evidentiary showing that there is a distortion of income between corporations that are related by common ownership or that there is a lack of arm's length pricing in transactions between such corporations.

Common ownership for the purposes of M.G.L. c. 63, § 32B means that more than 50% of the voting control of each member of the group is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, whether or not the owner or owners are members of the combined group. A unitary business exists for the purposes of § 32B when the activities of a group of two or more corporations under common ownership are sufficiently interdependent, integrated or interrelated through their activities so as to provide mutual benefit and produce a significant sharing or exchange of value among them or a significant flow of value between the separate parts. Massachusetts construes the term unitary business to broadest extent permitted under the United States Constitution.

A "combined group" is a group of corporations engaged in a unitary business and may, at the option of the group, include all non-U.S. corporations under a world-wide election that is binding for a ten year period. Alternately, taxpayers may elect to treat as their combined group all eligible members of their affiliated group without regard to whether or not the activities of each member are unitary; such an election is also binding for a ten year period. No group may make both a worldwide election and an affiliated group election for the same tax period and no group may make either election during the ten year period for which the other is in effect.

Corporations are excluded from the group if they are entities classified and taxed under M.G.L. c. 63, § 38B (Massachusetts Security Corporations, which pay a tax under M.G.L. c. 63 on gross income). A corporation is also excluded from a combined group if it is an entity described in G.L. c. 63, §§ 20 to 29E, inclusive, except as provided in 830 CMR 63.32B.2 (4) (b) (certain insurance companies) or it is an entity described in M.G.L. c. 63, § 38Y (corporations exempt from taxation under section 501 of the Code with respect to most activities but subject to a tax on unrelated business come).

Members of the combined group, whether or not taxable in Massachusetts, combine their income from the unitary business. A "taxable member" is a corporation included in a combined group which is taxable on its income in Massachusetts; all other corporations which are part of such a group are "non-taxable members". Each taxable member of such a combined group is apportioned a Massachusetts share of the group's combined income calculated based on its own property, payroll and sales in this commonwealth and the total property payroll and sales of the entire group. If the taxable member has other income, either from non-business activities or from its participation in a second unitary business carried on by the group, all such amounts are added together to determine the taxable member's income subject to tax. Each taxable member of the group then determines its separate income measure of excise and may take credits against this excise to the extent allowed by Massachusetts law.

## **Filing Form 355U – Principal Reporting Corporation**

The combined report required by M.G.L. c. 63, § 32B is filed on behalf of all members of the group by a principal reporting corporation, which must be a taxable member of the combined group and, if such a corporation exists and is a taxable member, the combined group's common parent. If the combined group does not have a common parent or that corporation is not a taxable member of the group, the principal reporting corporation shall be the taxable member of the group that reasonably expects to have the largest amount of Massachusetts taxable net income on a recurring basis.

In filing the return on behalf of the combined group, the principal reporting corporation agrees to act as the agent on behalf of the members of the combined group for all tax matters relating to the combined group, including: assessments; requesting extensions of time to file returns; making, renewing or revoking an election such as an affiliated group election or worldwide election; filing a refund claim; accepting of refunds or notices; executing waivers; and providing access to tax and other relevant records of the nontaxable members of the combined group as reasonably requested by the Commissioner. The designation of the principal reporting corporation, the elections allowed or required to be made by M.G.L. c. 63, the calculation of the group's combined income, the determination of the apportioned shares of the taxable members, and the calculation of the income tax liabilities of the various members and the payments made by the group are reported on behalf of all members by the principal reporting corporation when filing Form 355U.

Form 355U, and all pertinent schedules, must be filed electronically. Submissions other than by electronic filing will not be considered a timely filed return. Detailed regulatory guidance with respect to the Massachusetts combined reporting law is set forth at 830 CMR 63.32B.2.

## **Organization and structure of Form 355U**

Form 355U shows the aggregate tax liability of the combined group, declares whether the combined group is making or filing pursuant to either a worldwide or affiliated group election and shall provide other general information on behalf of the combined group. Massachusetts requires all corporations that are part of the combined group to use Department of Revenue (DOR) schedules to report their income as determined for federal income tax purposes and certain adjustments. This information must be provided separately for each member of the combined group on the specific DOR schedules described below. The combined net income of the group and the combined apportionment denominators are used by each taxable member to calculate its income subject to tax for the taxable year.

Each taxable member of the group must separately calculate its excise using its Massachusetts apportioned share of the group's income. Other excise due under M.G.L. c. 63 (i.e. the non-income measure of excise due from business corporations, recapture taxes, etc.) and credits taken are also reported as part of the taxable member's calculation of its excise. DOR Schedules showing these calculations must be completed separately by each taxable member.

## **Common Schedules to be Submitted with the Form 355U**

A brief description of some schedules that, depending on the circumstances, may be required with Form 355U is shown below. Instructions for these schedules are published separately. Note: Schedule U-NI, DRD, CD and F-2 are no longer required for taxable years beginning in 2013.

### **Schedule U-M**

Each member of the combined group, whether taxable or not, reports its own income and expenses for federal income tax purposes together with certain adjustments. An additional Schedule U-M is also filed to show the Massachusetts intercompany eliminations, if any.

### **Schedule U-CI**

The amounts on all Schedules U-M are totaled to show the combined income of the group before certain Massachusetts adjustments. A single schedule U-CI is filed with each Form 355U.

### **Schedule U-E**

- In Part 1 of this schedule, the combined income from a single unitary business is modified to reflect differences between Massachusetts and federal income calculations.
- In Part 2 of this schedule, the group calculates the denominators of the combined group's property, payroll and sales factors for the purpose of apportioning this combined income to taxable members.
- In Part 3 of this schedule, the group reports the combined Massachusetts numerators, totaling the amounts being reported separately by each taxable member on Schedule U-MSI.
- In Part 4 of this schedule, the group reports the amount of the combined group's taxable income or loss to be apportioned to all taxable members, totaling the amounts being reported separately by each taxable member on Schedule U-MSI.

### **Schedule U-ST**

Each taxable member of the group separately determines and reports its tax liability as a schedule submitted with Form 355U. Each schedule U-ST will include its own set of subsidiary schedules showing the calculation of tax or claim of certain deductions or credits by the taxable member.

### **Schedule U-TM**

The separately determined tax liability of each taxable member as shown on all the Schedules U-ST is reported on Schedule U-TM. A single schedule U-TM is filed with each Form 355U.

### **Schedule NIR**

Certain large corporations are required to file Schedule M-3 with their U.S. tax return reconciling, in Part 1, the income reported on their financial statements to the book income figure used as a base for calculating federal taxable income. Corporations filing Schedule M-3 with its U.S. tax return must file Schedule NIR with Massachusetts.

## **Schedule CIR**

Corporations participating in the filing of a consolidated U.S. tax return are required to submit a Schedule CIR with their Massachusetts corporate excise tax return, reconciling the net income of each member to the consolidated return income as reported federally.

## **Schedule FE**

Corporations required to file U.S. Form 5471 with respect to certain foreign corporations must file schedule FE with their Massachusetts return for each such foreign corporation. If any member of the combined group files U.S. Form 5471, the principal reporting corporation files schedule FE on behalf of that member.

## **Schedule TTP**

A member that takes a treaty-based return position must disclose that position when filing its Massachusetts form 355U. A taxpayer takes a treaty based return position by maintaining that a treaty of the U.S. overrules or modifies a provision of the Internal Revenue code and thereby causes (or potentially causes) a reduction of income required to be shown on the return. A member (including a non-taxable member) of the Massachusetts combined group calculating income under a treaty position indicates this on schedule U-M and provides further information about the treaty and its effect on income by attaching Schedule TTP.

## **Schedule U-INS**

A member claiming a deduction for insurance premiums or other amounts paid directly or indirectly to an affiliate that is not a member of the Massachusetts combined group and that qualifies as a life insurance company as defined in section 816 of the code or an insurance company subject to tax imposed by section 831 of the code must disclose the deduction.

## **Schedule ABI**

A member claiming a deduction for interest paid or accrued to a related party (in cases where such expense is not eliminated in the combined reporting that determines the taxable income of the group for Massachusetts purposes) must complete this schedule explaining the basis for the deduction.

## **Schedule ABIE**

A member claiming a deduction for intangible expense paid or accrued to a related party (in cases where such expense is not eliminated in the combined reporting that determines the taxable income of the group for Massachusetts purposes) must complete this schedule explaining the basis for the deduction.

## **Schedule DRE**

An entity that is disregarded as a separate entity from its owner for federal income tax purposes shall similarly be disregarded for purposes of MGL c. 63. A taxable member that is the owner of such an entity must identify each such disregarded entity by filing Schedule DRE. An S Corporation must similarly identify its QSUB(s) by filing Schedule DRE. Note that disregarded entities owned by corporations that are non-taxable members are not reported.

### **Schedule U-MSI**

Each taxable member of the group separately calculates its Massachusetts numerator for the purpose of apportioning the combined income. These figures, together with the group denominators calculated in Part 2 of the Schedule U-E are used to calculate the property, payroll and sales factors used to calculate the taxable member's apportionment percentage for determining its Massachusetts apportioned share of the income reported on Schedule U-E. The apportionment factors are weighted for each corporation based on the provisions of Ch. 63 under which that member is taxable.

### **Schedule U-MTI**

A taxable member may have income from non-unitary sources; if such income is taxable in Massachusetts, the amount of such income allocated or apportioned to Massachusetts is reported on this schedule.

### **Schedule NOL**

A taxable member that is eligible for a net operating loss deduction calculates the amount of the available NOL and the amount taken using this schedule. The NOL deduction taken is reported on Schedule U-ST.

### **Schedule U-NOLS**

A taxable member of a combined group which has an available NOL deduction which it cannot use may share an NOL generated by the unitary business with other members of the combined group provided such other members (a) are eligible to take a NOL deduction and (b) filed a combined report under 830 CMR 63.32B.2 with the corporation that has the NOL for the tax year to which the NOL relates. Note that this precludes corporations sharing losses from tax years beginning before January 1, 2009. The total amount of all such shared losses is reported by the corporation taking the deduction on Schedule U-ST.

### **Schedules A, B, C, D, RNW, F, A-1, A-2, and A-3**

A member of a combined group that is taxable under the provisions of M.G.L. c. 63, § 39 (business corporations, including S corporations determining their income measure of excise under §32D) is also liable for a non-income measure of excise. For years beginning in 2011, corporations with federal taxable years ending at the same time as the common taxable year used by the group to determine and pay the income measure of excise must include in the combined report the calculation of the non-income measure. Such members must include Schedules A, B and either Schedule C, D or RNW showing the calculation of the non-income measure of excise with the return. Schedules F, A-1, A-2, and A-3 must be enclosed if applicable. The non-income measure is reported on Schedule U-ST.

### **Schedule U-IC**

A taxable member taking credits against its excise reports the amount and type of each credit taken on this schedule. The total of the credits taken by a taxable member is reported on Schedule U-ST. Some credits require that a calculation schedule must also be submitted with the return.

## **Schedule U-CS**

A taxable member of a combined group which has available credits which it cannot use may share credits generated by the unitary business with other members of the combined group provided such other members (a) are eligible to take the credit and (b) filed a combined report under 830 CMR 63.32B.2 with the corporation that has the credit for the year to which the credit relates (note that this precludes corporations sharing credits from years beginning before January 1, 2009, but Corporations may also continue to share certain credits that were eligible to be shared under prior law (see 830 CMR 63.32B.2 (9)(c)(2)). The total amount of such shared credits is reported on Schedule 355U-ST.

## **Schedule CG**

The payments made by group members are reported here. This schedule reconciles all payments made by all members of the group towards the excise shown on the combined report.

## **Schedule TDS**

Taxpayers whose Massachusetts returns take positions inconsistent with the positions taken in another state where the governing law is the same in all material respects are required to disclose those positions. Taxpayers who fail to disclose such a position are subject to a penalty of 100% of any understatement of tax due to the inconsistent position and such penalty is in addition to any other penalty that may be due.

In addition, taxpayers who underpay their tax liability due to (a) either negligence or disregard of the tax laws of the commonwealth or (b) where there is a substantial understatement (the greater of 10% of the tax required to be shown on the return or \$1,000) are liable for a penalty of 20 percent of the amount of the underpayment. For purposes of determining the amount of the penalty, the amount of the deficiency subject to the substantial understatement provision will be reduced by any portion of the understatement attributable to a position supported by substantial authority or if the relevant facts are adequately disclosed in the return and there is a reasonable basis for the return position.

Enclosing Schedule TDS with the return understating the tax liability is one of the methods available to a taxpayer to make disclosure of such positions taken on the return. See TIR 06-05 for more information on applicable penalties and disclosure requirements.

## **Special Situations:**

### **Fiscalized members:**

Form 355U is used by the combined group to calculate and pay the income excise due from the taxable members of a combined group and, for 2011 and subsequent years, members of the group also pay their non-income measure of excise with the Form 355U if their taxable year ends at the same time as the year used for the combined report. Business corporations that pay their non-income measure of excise with the combined report should no longer file Form 355.

A taxable member of the combined group with a fiscal year ending at a different time (a member subject to "Fiscalization" as described in 830 CMR 63.32B.2 (12) (c) must still file a separate return (Form 355 or Form 355S as appropriate) at the time determined based on its own taxable year as determined as a

separate taxpayer and pay its non-income measure of excise. The separate non-income measure return, if required, must include Schedules A, B, and Schedule C, D or RNW along with any supporting schedules required for some entries as referenced on Schedule A. A corporation that would be eligible to apportion its income based on its own separate activities (i.e., the corporation is taxable on its income in another state without regard to the activities of its other combined group members) must also complete Schedule F without regard to the combined reporting provisions in order to determine its non-income measure.

Income reported in the combined return (including income to be reported on the following year's combined return) is not to be reported on the separate non-income measure return filed by a corporation subject to fiscalization. Schedule E is not required with the separate return unless the taxpayer has income from a source other than a unitary business that is to be reported on a separate company basis. In such cases, the corporation is to report on Form 355 or 355S, Schedule E only the income that is not included in the combined report and is to allocate or apportion such income without regard to the combined reporting provisions.

A member required to file a separate non-income return may claim credits against the excise shown due on that return, entering the credits claimed on Schedule CR of Form 355 or 355S. Supporting schedules for credits calculated on an aggregated basis (e.g. the research credit under § 38M) are determined based on the group year and schedules claiming such credits are submitted with Form 355U; duplicates of these schedules should not be attached to the separate non-income measure return. Members are required to reflect credits taken against the separately reported excise when determining credits available on the subsequent combined report (if carryover is allowed, reduce the amount carried over to prevent overstating available credits). Schedules supporting other credits claimed by a member with a year end that is different from the combined group's year must be submitted with the member's separate return when filed. Any credit not used on the member's separate return and carried over may be used against the excise due on a subsequent combined report with the limitations applicable to the specific credit.

### **S Corporations:**

A Massachusetts S corporation that is included in a 355U will also continue to file form 355S but that return will be informational only and will include Schedules S and SK-1. S corporations will determine the distributive income for shareholders and, for non-resident shareholders, the apportionment of that income without regard to the combined reporting provisions. Form 355S is due at the end of the S corporation's separately determined taxable year. Unless the S corporation has a different taxable year than the combined report (and Form 355S is therefore also being filed to determine and pay the non-income measure of excise), do not complete Schedules A, B, C, D, E and RNW with Form 355S and no excise is due with that return. Schedule F may be required if the income of the S Corporation is subject to apportionment and there are non-resident shareholders. Note that financial institutions that are S Corporations, although not subject to a non-income measure of excise, must file Form 63FI for the purpose of calculating distributive income and must submit Schedules S and SK-1.

## Line by Line instructions for Form 355U

**Question 1.** Check one box only. A financial group is a combined group all of whose members, including members not taxable on their income in Massachusetts, are entities that are financial institutions within the meaning of M.G.L. c. 63, s. 1. A non-financial group is a combined group none of whose members, including non-taxable members, are financial institutions. A mixed group is any combined group that includes at least one member that is a financial institution and at least one member that is not a financial institution.

**Question 2.** Check one box only. If the combined group is making no affirmative election (i.e., the default method of filing) and chooses “neither,” the combined group that is under common control and engaged in a unitary business will be determined on a “water’s edge” basis (i.e., with only certain non-U.S. corporations included in the combined group). See Regulation 830 CMR 63.32B.2 (5).

If the combined group is entitled to make an affiliated group election and affirmatively makes this election, the combined group is determined on a water’s edge basis but is expanded to include affiliated corporations that constitute the “Massachusetts affiliated group,” as defined in 830 CMR 63.32B.2(2) and (10). The composition of the combined group as a “Massachusetts affiliated group” is not dependent upon whether the group is engaged in a unitary business but can have the effect of converting income that is otherwise allocable income into apportionable income as well as other specific, significant tax consequences. A combined group is not entitled to make an affiliated group election unless it includes a federal affiliated group filing a consolidated return for federal income tax purposes, though the “Massachusetts affiliated group” that is subject to the election is not necessarily co-extensive with such a federal affiliated group. For example, the Massachusetts affiliated group can include (1) S corporations, certain insurance companies, REITs, RICs and non-U.S. corporations; (2) corporations that are under indirect or direct common ownership of greater than 50% (instead of the 80% vote-and-value standard used for purposes of filing a federal consolidated income tax return); and (3) the members of two or more affiliated groups where each group files a consolidated return for federal income tax purposes. A combined group is not entitled to make an affiliated group election if it is making or is subject to a previously made worldwide election. See Regulation 830 CMR 63.32B.2 (10) for the rules that apply in the context of a Massachusetts affiliated group election.

If the combined group is entitled to make the worldwide election and affirmatively makes this election, the combined group that is under common control and engaged in a unitary business will be determined on a worldwide basis (i.e., with no limitations on the non-U.S. corporations included in the combined group). When a combined group makes a worldwide election the income of the non-U.S. corporations that are included in the combined group are determined on a worldwide basis, and other specific rules apply. A combined group is not entitled to make a worldwide election if it is making or is subject to a previously made affiliated group election. See Regulation 830 CMR 63.32B.2 (5), (6) (c) 2.b for the rules that apply in the context of a worldwide election.

Both the affiliated group election and the worldwide election can only be made on this form 355U, when timely filed, by the combined group’s principal reporting corporation. Both elections are irrevocable and binding on all members of the combined group, including the non-taxable members and any corporations that subsequently enter the combined group, for the taxable year in which the election is made and the next nine taxable years. See Regulation 830 CMR 63.32B.2 (5) (c), (10) (d)-(f).

Where a combined group makes either an affiliated group or a worldwide election, the principal reporting corporation and all members of the group consent to the production of documents or other information that the Commissioner reasonably requires, e.g., information required to verify that the appropriate



members of the combined group are included, that the requirements of the election have been met, that the tax computation and tax reporting are proper, etc. In the case of the worldwide election, the documents shall be provided in language and form acceptable to the Commissioner.

**Question 3.** Check “Yes” if either the Affiliated Group Election or the Worldwide Election is indicated on line 2 and this is the first year the election is in effect.

If the combined group is making the affiliated group election or a worldwide election, the principal reporting corporation must at the time of the election prepare for itself and collect on behalf of each group member a letter of consent, to be made available to the Commissioner upon request. stating that the group member has agreed to the election and, also, further agrees (1) that such election applies to any member that subsequently enters the group and (2) that each member continues to be bound by the election in the event that such member is subsequently the subject of a reverse acquisition as described in U.S. Treas. Reg. s. 1.1502-75(d) (3). After making the election, the principal reporting corporation shall collect an identical consent from any member that subsequently enters the group during the period in which the election is in effect.

**Question 4.** If any member of the group is requesting alternative apportionment under M.G.L. c. 63, s. 42, check “Yes” and submit Form AA-1 and the supporting materials under separate cover (currently Form AA-1 cannot be filed electronically). In general, each taxable member of a combined group is to determine its apportionment formula on Schedule U-MSI. If any member of the combined group is seeking alternative apportionment, it must nonetheless complete Schedule U-MSI by applying the statutory rules that apply to such taxpayer, and not by applying the taxpayer’s proposed alternative apportionment approach. If the taxpayer’s proposed alternate method is later accepted, a refund of any overpayment will be made.

**Question 5.** If this is an amended filing (including, for purposes of this question, a filing that is to supersede a prior filing when both filings are made on or before the due date for the return), check “Yes.” Amended returns must be submitted electronically unless the requirements of DD 13-6 apply. In addition to electronically filing the amended return, a taxpayer must separately file form CA-6 with an explanation of the changes reflected on the amended return and the expected change to net tax if either (a) the tax shown on the amended return is a decrease from the amount of tax previously reported or (b) the amended return is a 2nd (or subsequent) amendment.

**Question 6.** If the group or any member is deducting an interest expense paid or accrued to a related entity and that expense is not eliminated in the combined report when determining the combined group’s taxable income, check “Yes”. Enclose one or more Schedules ABI supporting the claim of deduction.

**Question 7.** If the group or any member is deducting an intangible expense paid or accrued to a related entity, (including but not limited to an embedded royalty) and that expense is not eliminated in the combined report when determining the combined group’s taxable income, check “Yes.” Enclose one or more Schedules ABIE supporting the claim of deduction.

**Question 8.** If there is an entity or corporation that owns more than 50% of the voting stock of any member of the combined group that is not being included in the combined group, irrespective of that parent’s place of incorporation or formation, check “Yes.”

**Question 9.** In general, when a corporation that was not previously a Massachusetts taxpayer enters or otherwise is first included in a combined group the basis of the various assets of such member will be the basis of such assets for federal income tax purposes.

However, the principal reporting corporation of a combined group may elect to determine and apply a Massachusetts-adjusted basis for all assets of every member of the combined group that was not previously a Massachusetts taxpayer, including any non-taxpayer corporation that subsequently enters or otherwise is included in the combined group, provided that the corporation must possess and maintain adequate records to demonstrate the appropriate Massachusetts adjusted basis for all such assets. This election, which is irrevocable, may be made on this line. If a taxpayer is unable to reasonably document basis adjustments pursuant to this election for any member of the group, this election will be treated as void. See 830 CMR 63.32B.2 (6) (d).

**Question 10.** Answer “Yes” if any member is under audit by the I.R.S.

**Question 11.** If any member of the group is reducing its excise by utilizing a Massachusetts film credit under c. 63, § 38X, check “Yes.”

**Question 12.** If any member of the group is reducing its excise by utilizing a Massachusetts life sciences credit under c. 63, §§ 31M, 38U or 38W, check “Yes.”

**Question 13.** If one or more members of the group have undergone a federal audit that has resulted in a final determination, including any settlement or compromise, of a change to taxable income of any person subject to tax under c. 63, the changes must be reported to the commissioner within 2 months. This requirement also extends to changes in federal credits, but only if the change in the credit has an effect on the calculation of the tax imposed under c. 63. Enter the year (YYYY) of the most recent tax period for which such a change was received from the I.R.S.

**Question 14.** If any member of the group has filed Form 8275, Form 8275-R or Form 8886 with its federal tax return; enter the number of disclosures made by all members of the group. Note that Form 8275 and 8275-R allow for the disclosure of multiple issues on the same form. A taxpayer seeking to make adequate disclosure of an item for purposes of avoiding the Massachusetts penalty imposed under M.G.L. c. 63, s. 35A must disclose the relevant facts directly to the Department. See TIR 06-05.

**Question 15.** If any member of the group is submitting a Massachusetts Schedule TDS with this return, enter the number of disclosures made by all members of the group. A taxpayer seeking to make adequate disclosure of an item for purposes of avoiding the Massachusetts penalty imposed under M.G.L. c. 63, s. 35A must disclose the relevant facts directly to the Department. See TIR 06-05.

**Question 16.** A “taxable member” is a corporation included in the combined group that is taxable on its Massachusetts apportioned share of the combined group’s taxable income; each taxable member must file a Schedule U-ST with this return. Enter the total number of such taxable members on line 16.

**Question 17.** Enter the number of members subject to the non-income measure only.

**Question 18.** Enter the number of non-taxable members in the combined group.

**Question 19.** Certain large corporations are required to file federal Schedule M-3 with their U.S. tax return. Enter the number of Schedules M-3 filed by members, including non-taxable members, of the Massachusetts combined group. Treat the Schedule M-3 filing made with a federal consolidated tax return as a single Schedule M-3 for the purpose of answering this question (e.g., in the instance where more than one member of the Massachusetts combined group is included in a single federal Schedule M-3). Taxpayers filing federal Schedule M-3 must file Massachusetts schedule NIR with their Massachusetts income tax return. Enclose one Schedule NIR for each different Schedule M-3 filed with the I.R.S.

**Question 20.** Any member of a combined group that has a taxable year that is different than the combined group's taxable year for which the combined group's taxable income is being determined is required to adjust its income and expenses as shown on its U.S. tax return to reflect its income and expenses as incurred during the combined group's taxable year. Enter the number of members that are subject to such a "fiscalization" adjustment.

### **355U - Excise Tax Calculation Section**

In order to complete the tax calculation, all applicable schedules must be completed first. The amounts in lines 21 through 27 reflect the totals of the separately determined amounts for the combined group's taxable members. The amounts in lines 30 through 36 reflect the total of all payments to be applied to the income excise, and also certain refundable credits, of such individual members. Any refund due will be issued to the principal reporting corporation on behalf of the group.

**Line 21.** Enter the total income excise, before credits, due from members that are taxed as financial institutions as defined in c. 63, s. 2 or as financial institution S corporations under c. 63, s. 2B. This total must match the total reported on line 37 of all Schedules U-ST filed for members classified as financial institutions or financial institution S corporations.

**Line 22.** Enter the total income excise, before credits, due from members that are taxed as public utilities under c. 63, s. 52A. This total must match the total reported on line 37 of all Schedules U-ST filed for members classified as a utility.

**Line 23.** Enter the total income excise, before credits, due from members that are taxed as business corporations (including members classified as manufacturing corporations and research and development corporations) under c. 63, s. 39 or as S Corporations under c. 63, s. 32D. This total must match the total reported on line 37 of all Schedules U-ST filed for members classified as business corporations.

**Line 25.** Enter the total of individual members' credits used to reduce the income excise of the member that generated the credit. This total must match the total reported on line 38 of all Schedules U-ST filed for all members.

**Line 26.** Enter the total of individual members' credits used to reduce the income excise of any member other than the member that generated the credit. This total must match the total reported on line 39 of all Schedules U-ST filed for all members.

**Line 27.** Subtract the amounts on line 25 and line 26 from the total on line 24. This total must match the total reported on line 41 of all Schedules U-ST filed for all members. This should also match the total of column g amounts on Schedule U-TM.

**Line 30.** Enter the total of all members' 2012 overpayments applied to 2013 estimated taxes as shown on Schedule CG, Part 1, line 2.

**Line 31.** Enter the total of all members' estimated tax payments for all installments as shown on Schedule CG, Part 1, lines 3 through 6.

**Line 32.** Enter the total of all members' payments made with extension as shown on Schedule CG, Part 1, line 7.

**Line 33.** Enter the total of the pass-through entity withholding shown on schedule U-ST, line 42 for all members.

**Line 34.** Enter the total of the refundable credits shown on schedule U-ST, line 43 for all members.

**Line 35.** Enter the total amount of any tax payment(s) made with respect to the excise due from the combined group not included above. If this is an amended return, this includes but is not limited to a payment made with a previous return. If this is an amended return and a refund was previously issued in connection with a prior return or an overpayment was applied to estimated taxes for a subsequent year in lieu of a refund on such prior return, enter the amount as a negative number.

**Line 41.**

**M-2220 Penalty:** An additional charge may be imposed on corporations which underpay their estimated taxes or fail to pay estimated taxes. Form M-2220, Underpayment of Massachusetts Estimated Tax by Corporations, should be used to compute any underpayment penalty.

**Other Penalties.** Enter any other penalty due separately from the M-2220 penalty. Common penalties that may apply include (a) penalties for failure to file a tax return by the due date and failure to pay the tax shown on the return by the due date (each penalty is 1% of the tax due per month up to a maximum of 25%) and (b) The penalty for failure to file an amended return and pay the additional tax due within 90 days of a federal change (including settlements) is 10% of the additional tax.

**Line 42.** Any taxpayer that fails to pay its tax when due will be subject to interest charges on the unpaid balance. The interest rate is re-determined on a quarterly basis and Massachusetts announces the rate applicable by issuing a Technical Information Release (TIR) for each quarter.