

2016 Schedule U-NOLS Instructions

Member's Shared Loss Carry Forwards

Schedule U-NOLS must be completed by every taxable member of a combined group that is using a net operating loss (NOL) carry forward of another member of the group (i.e., where the loss was incurred in a prior tax year by such other "contributing" member). If the member is sharing an NOL carry forward from more than one group member, a single Schedule U-NOLS may be used to report the NOL carry forwards that are being shared from all such contributing group members.

A financial institution or a utility corporation as determined pursuant to Ch.63 is not entitled deduct a NOL carry forward either itself or on shared basis and therefore cannot file Schedule U-NOLS.

If any member has an NOL carry forward that derives from a loss incurred in "separate" activities that were not accounted for as part of the determination of a combined group's taxable income included in a combined report, e.g., a NOL carry forward that derives from a loss that was incurred in a tax year beginning prior to January 1, 2009, such carry forward cannot be shared.

In general, a corporation taxable under M.G.L. c. 63, § 39 and an S corporation taxable under M.G.L. c. 63, § 32D may carry forward and deduct an NOL for up to five taxable years. For taxable years beginning on or after January 1, 2009, where a taxable member of a combined group has an NOL carry forward that derives from the unitary business of such group, or the general business activities of such group in the instance where the group is subject to an affiliated group election, such NOL carry forward may be shared with another member of the group under certain circumstances. In particular, where the combined group was not subject to an affiliated group election in the tax year in which the loss was incurred, another member of the group may share (i.e., deduct) an NOL carry forward belonging to the member that incurred the loss if the loss was derived from activities of the unitary business and if such other member was engaged in the unitary business in the tax year that the loss was incurred. Further, in any case in which the combined group was subject to an affiliated group election for the tax year in which the loss was incurred, another member of the group may share (i.e., deduct) an NOL carry forward of the member that incurred the loss if it was a member of the combined group in the tax year that the loss was incurred, irrespective as to whether the members were engaged in a unitary business in such prior tax year.

A member of a combined group must first deduct its own NOL carry forwards before it may contribute its NOL carry forwards to another group member or, alternatively, share an NOL carry forward that belongs to another group member. Thus, for example, a member may contribute its NOL carry forwards to another member only if its taxable net income for the tax year in question has been reduced to zero. For the requirements and limitations that apply to the sharing of NOL carry forwards, see 830 CMR 63.32B.2 (8).

Schedule U-NOLS requires that a member must first determine the amount of its income against which a shared NOL carry forward may be deducted. If after deducting its own NOL carry forwards, the member has positive taxable income derived from the activities of the combined group, it must identify, for the NOL carry forward(s) that it seeks to share, the ending date of the tax year in which the underlying loss was incurred and the amount of the deduction claimed. Schedule U-NOLS permits the member to share

NOL carry forwards from one or more other contributing members from any or all of up to five preceding tax years, assuming that the requirements for sharing such NOL carry forwards are otherwise met. The deduction is only allowed to the extent that the member's taxable income derived from the activities of the combined group exceeds zero.

Header for Schedule U-NOLS

Enter the name of the taxable member filing the U-NOLS (using the name referenced on Schedule U-ST), the member's Federal Identification number and the beginning and ending dates of the combined group's tax year.

Also enter the unitary business identifier to identify the unitary business from which income referenced on lines 3 through 7 derives. This is the income from which the taxable member seeks to deduct the NOL carry forward.

In the case of an affiliated group election, the unitary business identifier will be 1. If the NOL relates to a prior year in which an affiliated group election was also in place, the loss may not be shared unless both corporations were members of the same affiliated group in the year in which the loss was incurred. If the NOL relates to a year for which no affiliated group election was made, the loss may not be shared unless both corporations were members of a combined group engaged in the same unitary business in the year to which the loss carry forward relates.

Where no affiliated group election has been made, unless both the income and the NOL carry forward relate to the same unitary business, the sharing of the carry forward is not permitted. If the combined group is engaged in more than one unitary business and has not made an affiliated group election, losses from one unitary business may only be shared as between members engaged in the same unitary business. In such cases, where a member seeks to share NOL carry forwards that relate to more than one unitary business, a separate Schedule U-NOLS is required as to each such business.

Line Instructions

Line 1

Indicate if the combined group is making or is subject to an affiliated group election or a worldwide election in the current year. If applicable, check the box indicating which election in effect.

Line 2

Indicate if the member taking the NOL carryforward is a mutual fund service corporation. Mutual fund service corporations that derive separate shares of income from a unitary business measured by their mutual fund sales activities and their other business activities must total the amounts from those Schedules U-MSI when completing lines 3 through 7 of this schedule.

Determination of Taxable Net Income Attributable to the Common Unitary Business

Lines 3 through 7

These lines apply only in the instance in which the combined group is not subject to an affiliated group election for the current year. In any instance in which the combined group is subject to an affiliated group election, skip to line 8.

Line 3

Enter the member's Massachusetts apportioned share of combined sec. 1231 gain or (loss) from this unitary business. This is the amount from Schedule U-MSI, line 33.

Line 4

Enter the member's Massachusetts apportioned share of combined capital gain or (loss) from this unitary business. This is the amount from Schedule U-MSI, line 31.

Line 5

Enter the member's Massachusetts apportioned share of combined income other than capital or sec. 1231 gains and losses. This is the amount from Schedule U-MSI, line 29.

Line 6

Enter as a positive adjustment, the amount of any non-deductible capital loss attributable to this business. If the member's share of the combined capital gain on line 4 (above) is greater than or equal to zero, or the net capital gain from all sources on Schedule U-ST, line 20 is greater than zero, enter "0". Otherwise enter the smaller of the adjustment required to offset the capital loss on line 4, above (as a positive value), or the adjustment required to offset the total of the amounts on Schedule U-ST, lines 17, 18 and 19 (also expressed as a positive value).

Line 7

Combine lines 3 through 6. If less than "0" enter "0" and stop here; the member has no taxable income from this unitary business.

Line 8

Enter the amount from Schedule U-ST, line 26.

Line 9

Member's taxable income from which a shared NOL may be deducted. If the group is subject to an affiliated group election, enter the amount from line 8. All other taxpayers enter the smaller of the amount on line 7 and the amount on line 8.

Line 10

An NOL carry forward can only be shared when (i) both the member using the carry forward and the member contributing the carry forward were members of a combined group engaged in a unitary business, or members of a combined group subject to an affiliated group election, in the tax year in which the loss was incurred, and (ii) the loss derived from the activities of such business or affiliated group activities.

Note that an NOL carry forward can never be shared when the underlying loss was incurred in a tax year beginning prior to January 1, 2009.

Enter the ending date of the oldest tax year in which a loss which may be shared was incurred in the MM/DD/YYYY format. The use of the NOL carry forward must be consistent with the requirements and limitations referenced in 830 CMR 63.32B.1 (8).

Line 11

Enter the amount of the shared NOL from the tax year referenced on the prior line that is being used. The total amount of all shared NOL deducted may not exceed the amount shown on line 9, above. If more than one other member is contributing an eligible NOL carry forward from the tax year that is being shared, enter the total amount from all contributing members being deducted by this member.

If more than one other member has an NOL carry forward that is eligible to be shared with the member that date back to the tax period referenced on the prior line, and the total amount available exceeds the amount that can be used by the member filing the Schedule U-NOLS, the NOL carry forward that is to be used is considered to be shared from each such contributing member on a pro-rata basis with respect to the amount available.

Each contributing member must reflect the amount of the NOL carry forward that it has contributed to the member sharing such carry forwards when it files its Schedule U-NOL, and must reduce the amount of its NOL carry forward that is available for carry forward to future years by the amount so shared. This reporting is to be made on the contributing member's own Schedule U-NOL.

Line 12

Subtract the amount on line 11 from the amount on line 9.

Lines 13 through 24

Repeat the procedure used for lines 11 through 13 for each of up to 4 additional prior tax years.