

2019 Schedule NOL Instructions

Major 2019 Tax Law Changes

Changes Related to Federal Tax Reform

On December 22, 2017, Public Law 115-97, the Tax Cuts and Jobs Act (TCJA), was signed into law. The TCJA provides for federal changes to a variety of provisions of the Internal Revenue Code (IRC) that affect business entities subject to the corporate and financial institution excise. In response to the TCJA, the Department of Revenue (DOR) issued written guidance addressing the impact of the TCJA in Massachusetts. This guidance is available on DOR's website. See e.g., TIR 19-11: Legislation Impacting the Massachusetts Tax Treatment of Selected International Provisions of the Federal Tax Cuts and Jobs Act, TIR 19-9: Extension of Time to File Short-Year Returns Resulting from Partnership Technical Termination, TIR 19-7: Massachusetts Treatment of Investments in Qualified Opportunity Zones, TIR 19-6: Impact of the Federal Tax Cuts and Jobs Act on a Taxpayer's Overall Method of Accounting for Massachusetts Purposes, and TIR 19-17: Application of IRC § 163(j) Interest Expense Limitation to Corporate Taxpayers.

Massachusetts Schedule FCI (Foreign Corporation Income)

Certain eligible businesses and individuals will be required to complete and file a Massachusetts Schedule FCI, Foreign Corporation Income, with their tax return to reflect their pro rata share of foreign corporation income that is reported federally under the TCJA. Specific instructions for completing Schedule FCI are available on DOR's website. See 2019 Schedule FCI and instructions.

Note: in addition to completing and submitting Schedule FCI a taxpayer must also refer to the specific tax return instructions herein to ensure amounts reflected on Schedule FCI are correctly reported on the tax return.

The TCJA made changes to the treatment and reporting of net operating losses for federal tax purposes. However, Massachusetts does not adopt these federal changes. Taxpayers should therefore continue to treat and report net operating losses in the same manner unaffected by the TCJA.

Net Operating Loss Carryforward

A corporation taxable under Massachusetts General Laws (MGL) ch 63, § 39 or an S corporation taxable under MGL ch 63, § 32D may carry forward and deduct a net operating loss (NOL). The number of years for which such a loss may be carried forward is 20 taxable years. NOLs cannot be carried back, and capital losses cannot be carried forward or back.

A corporation claiming a net operating loss files Schedule NOL with its return to report the amounts available and deducted. A corporation's oldest NOL carry forwards (as determined by the tax year to which such carry forwards relate) must be used first. In addition to the NOL ordering rules, a taxpayer that is subject to a limitation under Internal Revenue Code (IRC) § 382 must separately determine and apply its Massachusetts § 382 limitation under 830 CMR 63.30.2(11)(b).

A corporation claiming an NOL carryover from prior taxable years must file this schedule even if no deduction is taken in the current year. A corporation that has no Massachusetts NOL carryover from any prior year does not file this schedule.

Header information

Enter the name of the corporation and its Federal Taxpayer identification number. If the corporation has undergone an ownership change as described in IRC § 382(g) enter the date of the most recent change on the schedule; if there has been no such change, enter the corporation's date of incorporation or organization.

Line 1

Enter corporation's total net income or (loss) allocated or apportioned to Massachusetts for the current year. This will be the amount on Form 355 or Form 355S Schedule E, line 25 or Form 355U, Schedule U-ST, line 24.

Line 2

Indicate if the amount of any NOL carryover as reported in line 3 for any prior taxable year differs from the ending amount shown as remaining available for carryover by the corporation on the prior year return. Briefly explain the reasons for the change, and the date of any amended filings. Note that, in the case of a merger of two or more corporations, any NOL of a corporation absorbed in the merger is lost (see 830 CMR 63.30.2(11)).

Line 3

Beginning with the oldest tax year for which an NOL is carried forward to the current year, enter the period end date and the amount of the NOL available, the NOL used (deducted) in the current year and the amount remaining at the end of the current year.

The period end date should be the period end date as shown on the return for the taxable year in which the loss was incurred. Taxpayers should enter each subsequent prior year in order.

The post-apportionment NOL available reported should be the amount as reduced by deductions claimed in prior taxable years. If the corporation did not have a loss in the taxable year referenced, or if it has previously deducted all of the available loss, enter 0.

Corporations that filed Form 355U, Schedule U-ST in the most recent prior year should refer to the amount from 2017 Schedule U-ST, line 24 (if a loss) or to 2017 Schedule NOL line 3.

Corporations that filed Form 355 or Form 355S in the most recent year should refer to the amount from 2017 Schedule E, line 23 (if a loss) or to 2017 Schedule NOL, line 3 less any portion of those losses deducted in that immediate prior year.

Corporations that did not file a Massachusetts return in 2017 see special instructions below for calculating the amount of an NOL available from a prior year in which a Massachusetts return was filed.

The amount deducted is the amount of each NOL actually deducted in the current year. Taxpayers filing a combined report (Form 355U) may be eligible to share certain 2009 and later NOLs with other members of the combined group (see 830 CMR 63.32B.2 (8)). A corporation filing as part of a combined group in a combined report that is allowing other members of that group to use any portion of its available NOL should add the amount shared with affiliates to the amount they are deducting from their own income and enter the total here.

The remaining NOL for each year is the amount available less the amount used or shared. Except where a limitation applies, all of the

oldest taxable year's NOL will be used before any of a subsequent NOL is deducted.

Line 4

Enter the total of the post-apportionment NOL available. This will be the total of the carryover amounts shown in line 3 plus any current year loss amount to be carried over if included in line 1. Taxpayers claiming deductions under MGL c. 63 § 38H (Schedule E, line 24) must adjust line 1 amount by adding back any portion of the loss attributable to that deduction.

Line 5

Enter the total of the line 3 "NOL used or shared" amounts as shown above. For corporations filing Form 355 or Form 355S or corporations filing Form 355U, Schedule U-ST but not actually sharing any of their NOL carryover, this will not be more than the amount on line 1.

Line 6

Subtract the amount on line 5 from the amount on line 4. This should equal the total of the remaining NOL amounts as shown above plus any current year net operating loss from line 1.

Line 7

A net operating loss for a taxable year beginning on or after January 1, 2010 may be carried forward for up to 20 taxable years. A short taxable year is treated as a full taxable year for this purpose. If the oldest loss shown above is expiring at the end of the current year, enter the amount of the expiring loss here.

Line 8

Subtract line 7 from line 6. This may not be less than 0. Corporations filing from Forms 355 or 355S enter this amount on Schedule E, line 28.

Line 9

A corporation that is filing Form U-ST must enter the portion of the NOL deducted from its own income. This may not be more than the amount shown on line 5. Corporations which are not filing as members of a Massachusetts combined group do not complete this item.

Loss sharing — taxpayers filing a combined report only

A corporation which filed a combined report in 2009 or a subsequent year may have carried forward an NOL from its apportioned share of the loss generated by the combined group. In general, the amount of the loss that potentially can be shared will be calculated in a manner similar to the calculations shown on Schedule U-NOLS lines 3 through 7 for years after 2009. For corporations in combined groups that file a single Schedule U-E with no income other than that shown on Schedule U-MSI, this NOL will be the amount shown on Schedule U-ST line 24.

Losses may only be shared with group members that were also group members in the year in which the loss was incurred, and any deductions must be consistent with the requirements and limitations as referenced in 830 CMR 63.32B.2(8). NOLs that are not derived from a prior year combined report or which derive from losses incurred in connection with a corporation's "separate" non-unitary business activities (i.e., business activities that are not accounted for as part of a combined group's taxable income and reported on a prior year Schedule U-MTI), may never be shared.

Precombination losses — taxpayers filing a combined report only

A corporation filing a combined report and deducting a loss incurred in a year in which a combined report was not filed is subject to the limitation calculated under 830 CMR 63.32B.2(8)(f). The limitation is based on the amount of income that would be apportioned to the taxpayer in the current year using the apportionment numerators applicable in the year in which the loss was incurred (with adjustments for states no longer eligible for throwback and, optionally, for growth). If the taxpayer has losses from 2 or more pre-combination years, the prior year numerators are averaged. This limitation does not apply to losses incurred in a combined reporting year. See Directive 10-5 for additional information.

Example

Corporation X files Form 355 for calendar year 2019 and has apportioned taxable net income of \$12,000 on Schedule E, line 25. Corporation X had net operating losses in the taxable years ending March 31, 2015 and March 31, 2016, changed to a December year end for subsequent periods and also incurred an NOL in 2017. The corporation used part of its available losses as deductions against its apportioned net income in 2016 and 2017 and the amounts of those losses remaining available are \$15,000 for the year ending March 2015, \$3,000 for the year ending March 2016 and \$7,000 for the year ending December 2018.

Schedule NOL — Line 3

Period end date	Post apportionment NOL available	NOL used or shared	Remain-NOL
03/31/2015			
03/31/2016	3,000	2,000	1,000
12/31/2016	0	0	0
12/31/2017	0	0	0
12/31/2018	7,000	0	7,000
4. Total NOL available			25,000
5. Total NOL used or shared this year			12,000
6. Total NOL not used			13,000
7. Total NOL expired (if applicable)			0
8. Total NOL available for carryover to future years			13,000