2019 Schedule U-NOLS Instructions

Member's Shared Loss Carryforwards

Schedule U-NOLS must be completed by every taxable member of a combined group that is using a net operating loss (NOL) carryforward 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 carryforward from more than one group member, a single Schedule U-NOLS may be used to report the NOL carryforwards that are being shared from all such contributing group members.

A financial institution as determined pursuant to MGL ch 63 is not entitled to deduct an NOL carryforward either itself or on shared basis and therefore cannot file Schedule U-NOLS.

If any member has an NOL carryforward 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 carryforward that derives from a loss that was incurred in a tax year beginning prior to January 1, 2009). Such a carryforward cannot be shared.

In general, a corporation taxable under MGL ch 63, § 39 and an S corporation taxable under MGL ch 63, § 32D may carryforward 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 carryforward 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 carryforward 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 carryforward 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 carryforward 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 carryforwards before it may contribute its NOL carryforwards to another group member or, alternatively, share an NOL carryforward that belongs to another group member. Thus, for example, a member may contribute its NOL carryforwards to another member only if its taxable net income for the tax year in question has been reduced to 0. For the requirements and limitations that apply to the sharing of NOL carryforwards, 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 carryforward may be deducted. If, after deducting its own NOL carryforwards, the member has positive taxable income derived from the activities of the combined group, it must identify, for the NOL carryforward(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 carryforwards 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 carryforwards 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 0.

General Instructions

Enter the name of the taxable member filing the Schedule 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 carryforward.

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 carryforward relates.

Where no affiliated group election has been made, unless both the income and the NOL carryforward relate to the same unitary business, the sharing of the carryforward 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 carryforwards 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 is 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 both 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 IRC § 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 IRC § 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 0, or the net capital gain from all sources on Schedule U-ST, line 20 is greater than 0, 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 carryforward can only be shared when both of the following conditions apply in the tax year in which the loss was incurred:

• The member using the NOL carryforward and the member contributing the NOL carryforward were both members of a combined group engaged in a unitary business (or were both members of a combined group subject to an affiliated group election); and

• The loss to be shared was derived from the activities of such unitary business (or was derived from the activities of such affiliated group).

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 carryforward 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 carryforward 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 carryforward 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 carryforward 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 carryforward that it has contributed to the member sharing such carryforwards when it files its Schedule U-NOL, and must reduce the amount of its NOL carryforward that is available for carryforward 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 19 additional prior tax years.