Massachusetts Department of Revenue

# Schedule ABIE

# Exceptions to the Add Back of Intangible Expenses 2023

**Enclose this schedule to claim an exception to the requirement under MGL ch 63, §§ 31I, 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.**

| Name of taxpayer | 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 Form 355S, Schedule E ○ Other

## Total Exceptions Claimed

**1** Amount from Exception 1, line 7 . . . . . **1**

**2** Amount from Exception 2, line 15f . . . . . **2**

**3** Amount from Exception 3, line 1 . . . . . **3**

**4** 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 or 63 FI) . . . . . **2**

**3** 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..

**3a** Tax rate from related member's return . . . . . **3a**

**3b** Tax rate from related member's return . . . . . **3b**

**3c** Tax rate from related member's return . . . . . **3c**

**3d** Tax rate from related member's return . . . . . **3d**

**3e** Tax rate from related member's return . . . . . **3e**

**4** 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.

**4a** Related member's apportionment percentage . . . . . **4a**

**4b** Related member's apportionment percentage . . . . . **4b**

**4c** Related member's apportionment percentage . . . . . **4c**

**4d** Related member's apportionment percentage . . . . . **4d**

**4e** Related member's apportionment percentage . . . . . **4e**

Name of taxpayer | Federal Identification number | For tax year beginning | Ending

## Exception 1 (cont'd.)

**5** Multiply line 3 by line 4. Where the related member is taxed in more than one jurisdiction, multiply the respective responses from lines 3 and 4.

**5a** Apportioned tax rate . . . . . **5a**

**5b** Apportioned tax rate . . . . . **5b**

**5c** Apportioned tax rate . . . . . **5c**

**5d** Apportioned tax rate . . . . . **5d**

**5e** Apportioned tax rate . . . . . **5e**

**5f** 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 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 or 63 FI) . . . . . **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 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.

**8a** Related member's net income . . . . . **8a**

**8b** Related member's net income . . . . . **8b**

**8c** Related member's net income . . . . . **8c**

**8d** Related member's net income . . . . . **8d**

**8e** Related member's net income . . . . . **8e**

**9** Multiply line 7 by line 8. Where the related member is taxed in more than one jurisdiction, multiply the respective responses from lines 7 and 8.

**9a** . . . . . **9a**

**9b** . . . . . **9b**

**9c** . . . . . **9c**

**9d** . . . . . **9d**

**9e** . . . . . **9e**

Name of taxpayer | Federal Identification number | For tax year beginning | Ending

## Exception 2 (cont'd.)

**10** For each jurisdiction referenced in line 8, enter amount from line 1 or line 9, whichever is lesser.

**10a** . . . . . **10a**

**10b** . . . . . **10b**

**10c** . . . . . **10c**

**10d** . . . . . **10d**

**10e** . . . . . **10e**

**11** Provide related member apportionment percentages for jurisdiction(s) referenced in line 8. Enter "1" if the related member is taxable in only one jurisdiction and therefore not subject to apportionment.

**11a** Related member's apportionment percentage . . . . . **11a**

**11b** Related member's apportionment percentage . . . . . **11b**

**11c** Related member's apportionment percentage . . . . . **11c**

**11d** Related member's apportionment percentage . . . . . **11d**

**11e** Related member's apportionment percentage . . . . . **11e**

**12** Multiply line 10 by line 11. Where the related member is taxed in more than one jurisdiction, multiply the respective responses from lines 10 and 11.

**12a** . . . . . **12a**

**12b** . . . . . **12b**

**12c** . . . . . **12c**

**12d** . . . . . **12d**

**12e** . . . . . **12e**

**13** For each jurisdiction referenced in line 8, enter tax rate(s) applied to the related entity.

**13a** Related entity's tax rate. . . . . **13a**

**13b** Related entity's tax rate. . . . . **13b**

**13c** Related entity's tax rate. . . . . **13c**

**13d** Related entity's tax rate. . . . . **13d**

**13e** Related entity's tax rate. . . . . **13e**

**14** Divide each rate in line 13 by line 4. Do not enter more than "1".

**14a** . . . . . **14a**

**14b** . . . . . **14b**

**14c** . . . . . **14c**

**14d** . . . . . **14d**

**14e** . . . . . **14e**

Name of taxpayer | Federal Identification number | For tax year beginning | Ending

## Exception 2 (cont'd.)

**15** Exception amount claimed. Multiply line 12 by line 14. Where the related member is taxed in more than one jurisdiction, multiply the respective responses from lines 12 and 14. Enter here and in Total Exceptions Claimed, line 2.

**15a** . . . . . **15a**

**15b** . . . . . **15b**

**15c** . . . . . **15c**

**15d** . . . . . **15d**

**15e** . . . . . **15e**

**15f** 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.

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 in Exception 1 or 2.

Basis for this claim (fill in only one): ○ Business purpose or economic substance ○ MGL ch 63, § 31K foreign treaty exception ○ Conduit exception

**1** Amount of deductible intangible expenses or cost claimed by taxpayer. Enter 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** Federal Identification number of the related member to which taxpayer paid, accrued or incurred the intangible expense or cost. . . . . **3**

**4** Type of intangible asset for which the expense or cost is being paid, accrued or incurred (e.g., trademarks, patent, etc.). If more than one, name the type of asset that resulted in the greatest 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 MGL ch 63, §31K exception, enter the name of the foreign nation in which the related member is resident . . . . . **9**

**10** Fill in if taxpayer asserted an add back exception in connection with the arrangement, agreement or contract on its Massachusetts return for a prior year . . . . . ○

**11** Fill in if intangible expense or cost was actually paid (e.g., as opposed to accrued) . . . . . ○

**12** Fill in if answer to line 11 is Yes and the amount paid was substantially returned to the taxpayer, either directly or indirectly, during the tax year (e.g., through the means of a dividend, loan, etc.) . . . . . ○

**13** Fill in if underlying transaction was entered into in whole or in part on the advice of a tax advisor . . . . . ○

**14** Fill in if reduction of tax was a principal purpose for the underlying transaction . . . . . ○

**15** Fill in if intangible assets referenced in line 4 were primarily developed by the taxpayer . . . . . ○

**16** Fill in if intangible assets referenced in line 4 were primarily developed by the related member . . . . . ○

**17** Fill in if intangible assets referenced in line 4 were acquired by the related member from an unrelated party . . . . . ○

**18** Provide greater detail, if necessary, concerning Exception 3 claim _____

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Name of taxpayer | Federal Identification number | For tax year beginning | Ending

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

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 in Exception 1 or 2.

Basis for this claim (fill in only one): ○ Business purpose or economic substance ○ MGL ch 63, § 31K foreign treaty exception

**1** Amount of deductible discounting or factoring loss claimed by taxpayer. Enter 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** Federal Identification number of the related member to which 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 (mm/dd/yyyy) . . . . . **4**

**5** If the discounting or factoring loss was incurred pursuant to a written contract, enter the contract date (mm/dd/yyyy) . . . . **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 (mm/dd/yyyy). . . . . **6**

**7** If the taxpayer is seeking the MGL ch 63, § 31K exception, enter the name of the foreign nation in which the related member is resident.. . . . . **7**

**8** Fill in if taxpayer asserted an add back exception in connection with the arrangement, agreement or contract on its Massachusetts return for a prior year. . . . . ○

**9** Fill in if structure was used to effect the discounting or factoring transaction(s) entered into in whole or in part on the advice of a tax advisor . . . . . ○

**10** Fill in if reduction of tax was a principal purpose for the structure used to effect the discounting or factoring transactions or the transactions themselves . . . . . ○

**11** Fill in if some or all of any receivables were sold in the discounting or factoring transaction(s) generated by the taxpayer in the ordinary course of its business . . . . . ○

**12** Fill in if some or all of any receivables were sold in the discounting or factoring transaction(s) originally acquired by the taxpayer from another party . . . . . ○

**13** Fill in if discounting or factoring loss was incurred as part of an attempt by the taxpayer or a related member to securitize the underlying receivables . . . . . ○

**14** Fill in if answer to line 13 is Yes and taxpayer services the receivables . . . . . ○

**15** Fill in if taxpayer initiates or pursues any activities on delinquent accounts . . . . . ○

**16** Provide greater detail, if necessary, concerning Exception 4 claim _____

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