

2018 MICHIGAN Excess Business Loss MI-461

Issued under authority of Public Act 281 of 1967, as amended.

Type or print in blue or black ink. Print numbers like this: 0123456789 - NOT like this: 0 1 4 7

Attachment 27

1. Filer's Name Shown on Tax Return	2. Identifying Number
-------------------------------------	-----------------------

ALLOWABLE AND EXCESS BUSINESS LOSS

If additional space is needed, complete the *Excess Business Loss Continuation Schedule* (Form 5606).

A Business Name	B Federal Employer Identification Number (FEIN or SSN)	C Apportionment Percentage from MI-1040H, line 8 (if applicable)	D Federal Income (Loss) (Amount included in U.S. Form 461, line 14)	E Michigan Income (Loss) (Amount in column D attributable to business activity in Michigan)	F Non-Michigan Income (Loss) (Amount in column D attributable to business activity outside of Michigan)
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00
		%	00	00	00

3. **TOTAL.** Add columns D, E and F. Include amounts from *Excess Business Loss Continuation Schedule*, Form 5606 (if applicable) 00 00 00

4. Percentage of Total Loss. Divide the total of each column on line 3 by column D, line 3.....	100	%		%	%
5. Federal Allowable Business Loss (see instructions)	00			00	00
6. Wage and unemployment adjustment (see instructions)	00			00	00
7. Subtotal. If line 3, column E or F is negative, add lines 5 and 6. If line 3, column E or F is positive, add lines 3 and 6.....	00			00	00
8. Adjustment when either line 7, column E or line 7, column F is a positive number (see instructions)				00	00
9. Apportioned Allowable Business Loss as adjusted (see instructions)	00			00	00
10. Excess Business Loss (see instructions)				00	00

Instructions for Form MI-461, Excess Business Loss

Federal Excess Business Loss

The federal 2017 Tax Cuts and Jobs Act enacted a limitation on federal business losses that are included in Adjusted Gross Income (AGI). The limitation is computed by aggregating federal business income and federal business loss. If the computation results in a loss, the Internal Revenue Code (IRC) 461(l) limits such business losses in excess of business income to \$250,000 for filers who are single or married filing separately or \$500,000 for joint filers. The limitation for fiduciary filers is \$250,000. The excess business loss that is excluded from AGI becomes a net operating loss (NOL) in the following tax year.

Michigan Excess Business Loss

The Michigan Department of Treasury will refer to the amount in excess of the limitation as “excess business loss.” Taxpayers who have a federal excess business loss limitation must file Form MI-461 to determine the Michigan portion of federal business income or loss included in AGI. Additionally, the form will determine the possible Michigan portion of the excess business loss that is treated as a Michigan NOL in the following tax year.

Michigan Taxation of Business Income

Michigan’s definition of business income differs from the federal definition of business income. Michigan defines business income as all income arising from transactions, activities, and sources in the regular course of the taxpayer’s trade or business. Michigan business income includes the distributive share of income from a flow-through entity, including portfolio income. Wages, guaranteed payments to partners, and unemployment compensation are not considered business income for Michigan purposes. Taxpayers may subtract from AGI any business income that is not allocated or apportioned to Michigan. Conversely, losses not allocated or apportioned to Michigan must be added to AGI. Business income is apportioned by a sales factor on a *Schedule of Apportionment* (Form MI-1040H).

Due to the differences in the business income reported for federal purposes, the federal business income and loss reported on Form MI-461 may not include all business income or loss for Michigan purposes (e.g., interest and dividends). Business income or loss not reported on Form MI-461 that is not attributable to Michigan must be separately adjusted on Michigan Schedule 1 or Schedule NR.

How to Claim Excess Business Loss as a Michigan NOL

The NOL created by the excess business loss is tracked as an NOL carryforward. Include Form MI-461 with the tax return claiming the NOL until the loss is absorbed. For assistance, refer to the “Michigan NOL Carryover Worksheet” available on Treasury’s Web site.

Required Supporting Documentation

Include a copy of the federal income tax return with applicable schedules and statements to substantiate the excess business loss:

- U.S. Form 1040
- U.S. Form 1040 *Schedule(s) 1, B, C, D, E, F*
- U.S. Form 461
- U.S. Form 4797
- U.S. Form 4835
- *Schedule K-1(s)*
- Any other applicable documentation

Provide a statement indicating the business activity and location (city and state) of each source of income or loss. For assistance, refer to the “Business, Rental & Royalty Activity Worksheet” and its instructions available on Treasury’s Web site. If there is income or loss subject to apportionment, include a Form MI-1040H.

Line-by-Line Instructions

Lines 1 and 2: For individual income tax filers, enter the filer’s name and full nine-digit Social Security number at the top of the form. For fiduciary filers, enter the name of the estate or trust and full Federal Employer Identification Number (FEIN).

Allowable and Excess Business Loss Table: Enter income as a positive number. Enter loss as a negative number. If you have more than 12 entries, continue those entries on the 2018 *Michigan Excess Business Loss Continuation Schedule* (Form 5606).

Columns A and B: Enter the business entity name and FEIN. If the business entity is a sole proprietorship, enter the filer’s Social Security number.

If business wages, unemployment compensation or guaranteed payments are included on the U.S. Form 461, line 14, combine these items as one entry. In column A, enter the applicable description instead of a business name. In column B, enter the filer’s Social Security number. See Example 1.

Column C: Enter the apportionment percentage determined on Form MI-1040H, line 8 for each business subject to Michigan apportionment. For entities with business activity only in Michigan, enter 100%. For entities with no business activity in Michigan, enter 0%. Refer to Form MI-1040H instructions for assistance in determining whether business activity is within and/or outside Michigan.

For business wages, unemployment compensation or guaranteed payments that were entered on a separate line in column A, leave column C blank.

Column D: Enter federal business income or (loss) for each entity after applying passive loss limitation and before applying the federal excess business loss limitation. Only include the income or (loss) used to compute the federal excess business loss limitation.

For business wages, unemployment compensation or guaranteed payments that were reported on a separate line in column A, enter the total amount included in U.S.

Form 461, line 14, in column D. Also report this amount as a negative number on line 6, column D.

Column E: Multiply the amount in column D by the percentage in column C.

Wages, unemployment compensation or guaranteed payments received by a Michigan resident are taxable to the State of Michigan, no matter where they were earned.

Wages or guaranteed payments received by a Michigan nonresident for work performed in Michigan are taxable to the State of Michigan, unless the taxpayer resides in a reciprocal state (Illinois, Indiana, Kentucky, Minnesota, Ohio and Wisconsin).

For business wages, unemployment compensation or guaranteed payments entered on a separate line in column A enter the portion that is sourced to Michigan in column E. Also report this amount as a negative number on line 6, column E.

Column F: Subtract the amount in column E from the amount in column D.

Michigan nonresidents only, for business wages, unemployment compensation or guaranteed payments entered on a separate line in column A, enter the portion that is not taxable to Michigan in column F. Also report this amount as a negative number on line 6, column F.

Line 3: Enter the total for columns D, E and F, including amounts from *Excess Business Loss Continuation Schedule* (Form 5606), if applicable. If filing multiple Forms 5606 combine the amounts from all forms. The amount on line 3, column D should match U.S. Form 461, line 14.

Line 4: If the computed percentage is less than zero, enter zero. If the computed percentage is greater than 100, enter 100.

Line 5, Column D: Enter the federal allowable business loss as a negative number: \$250,000 for filers who are single, married filing separately, or fiduciary filers; \$500,000 for joint filers.

Line 5, Column E: Multiply the amount on line 5, column D by the percentage on line 4, column E. Enter the result on line 5, column E.

Line 5, Column F: Multiply the amount on line 5, column D by the percentage on line 4, column F. Enter the result on line 5, column F.

Line 6: Any wages, unemployment and guaranteed payments reported on a separate line in the table above, enter in their respective columns as a negative number. See Example 1.

Line 7: Subtotal each column as follows:

- For column D, add lines 5 and 6.
- For column E, if line 3 is negative, add lines 5 and 6. If line 3 is positive, add lines 3 and 6.
- For column F, if line 3 is negative, add lines 5 and 6. If line 3 is positive, add lines 3 and 6.

Lines 8 and 9: Determine the required adjustment, if any:

- For line 9, column D enter the amount from line 7.
- If line 7, columns E and F are both negative or one is zero, no adjustment is required; skip line 8 and enter the amount from line 7 on line 9. See Example 1.

- If line 7, column E is positive, enter that amount on line 9, column E, leave line 8, column E blank. On line 8, column F enter line 3, column E as a negative number. For line 9, column F add lines 7 and 8. See Example 2.
- If line 7, column F is positive, enter that amount on line 9, column F, leave line 8, column F blank. On line 8, column E enter amount from line 3, column F as a negative number. For line 9, column E add lines 7 and 8. See Example 3.

Michigan Residents:

- If line 9, column F is a positive number, carry the amount to Schedule 1, line 13 and combine with other amounts reported on that line.
- If line 9, column F is a negative number, carry this amount as a positive number to Schedule 1, line 4 and combine with other amounts reported on that line.

Schedule NR Instruction for Michigan Part-Year Residents and Nonresidents:

Combine any amounts carried to the Schedule NR with other amounts reported on those lines.

- Carry any wages included in the adjustment on line 6 to the appropriate columns on line 5 of the Schedule NR.
- Carry any guaranteed payments included in the adjustment on line 6 to the appropriate columns on line 9 of the Schedule NR.
- Carry any unemployment compensation included in the adjustment on line 6 to the appropriate columns on line 11 of the Schedule NR.
- Carry line 9, columns D, E, and F to the appropriate columns on line 11 of Schedule NR.

Michigan Resident Estates or Trusts:

If line 9, column F is a positive number, carry the amount to the *Michigan Fiduciary Income Tax Return* (Form MI-1041), line 38 and combine with other amounts reported on that line.

If line 9, column F is a negative number, report the amount as a positive number on Form MI-1041, line 33 and combine with other amounts reported on that line.

Line 10: For either column E or F, if line 9 is negative, subtract lines 5 and 8 from line 3. If line 9, column E is positive, you do not have a Michigan excess business loss.

Line 10, Column E: This amount is a Michigan excess business loss NOL available in the following year(s). If zero or greater, you do not have a Michigan excess business loss NOL.

To claim the Michigan excess business loss NOL, submit a copy of this form in the following year(s), until the loss is fully absorbed. Do not claim this loss on *Michigan Net Operating Loss* (Form MI-1045).

Line 10, Column F: This amount is not attributable to Michigan and is not a Michigan NOL.

Nonresident Estates or Trusts:

Carry the excess business loss from line 10, columns E and F as positive numbers to the appropriate columns on *Michigan Fiduciary Nonresident Schedule* (Form MI-1041 Schedule NR), line 8 and combine with other amounts reported on that line.

Examples

The taxpayers in these examples have a federal excess business loss limitation. These examples illustrate how the Michigan allowed and excess business losses are computed.

Example 1: Michigan resident, single filer with Michigan and non-Michigan losses

Cassie, a Michigan resident, is a single filer with business losses that exceed business gains by more than the \$250,000 limitation for a single filer. Her losses and gains were attributable to activity occurring in Michigan and other states. The Michigan share of the allowable loss is \$217,850. The non-Michigan share of the allowable loss is \$82,150, which must be added back on Schedule 1. Cassie creates a Michigan excess business loss NOL carryforward of \$67,150, which may be combined with other NOL deductions available for the following year.

A Business Name	B Federal Employer Identification Number (FEIN or SSN)	C Apportionment Percentage from MI-1040H, line 8 (if applicable)		D Federal Income (Loss) (Amount included in U.S. Form 461, line 14)	E Michigan Income (Loss) (Amount in column D attributable to business activity in Michigan)	F Non-Michigan Income (Loss) (Amount in column D attributable to business activity outside of Michigan)
Wages	111-11-1111		%	50,000	50,000	
Company A	22-2222222	77	%	(500,000)	(385,000)	(115,000)
Company B	33-3333333	100	%	100,000	100,000	
3. TOTAL. Add columns D, E and F. Include amounts from <i>Excess Business Loss Continuation Schedule</i> , Form 5606 (if applicable)				(350,000)	(235,000)	(115,000)
4. Percentage of Total Loss. Divide the total of each column on line 3 by column D, line 3.....				100	%	67.14
5. Federal Allowable Business Loss (see instructions)				(250,000)	(167,850)	(82,150)
6. Wage and unemployment adjustment (see instructions)				(50,000)	(50,000)	
7. Subtotal. If line 3, column E or F is negative, add lines 5 and 6. If line 3, column E or F is positive, add lines 3 and 6.....				(300,000)	(217,850)	(82,150)
8. Adjustment when either line 7, column E or line 7, column F is a positive number (see instructions)						
9. Apportioned Allowable Business Loss as adjusted (see instructions)				(300,000)	(217,850)	(82,150)
10. Excess Business Loss (see instructions)					(67,150)	(32,850)

Example 2: Michigan resident, single filer with Michigan gains and non-Michigan losses

Evan, a Michigan resident, is a single filer with business losses that exceed business gains by more than the \$250,000 limitation for a single filer. His losses and gains were attributable to activity occurring in Michigan and other states. The allowable loss is comprised of a Michigan gain of \$30,000 and a non-Michigan loss of \$280,000. The non-Michigan loss of \$280,000 must be added back on Schedule 1. Evan did not incur a Michigan excess business loss NOL for the following year.

A Business Name	B Federal Employer Identification Number (FEIN or SSN)	C Apportionment Percentage from MI-1040H, line 8 (if applicable)		D Federal Income (Loss) (Amount included in U.S. Form 461, line 14)	E Michigan Income (Loss) (Amount in column D attributable to business activity in Michigan)	F Non-Michigan Income (Loss) (Amount in column D attributable to business activity outside of Michigan)
Company A	11-1111111	15	%	(400,000)	(60,000)	(340,000)
Evan's Consulting	222-22-2222	100	%	90,000	90,000	
3. TOTAL. Add columns D, E and F. Include amounts from <i>Excess Business Loss Continuation Schedule</i> , Form 5606 (if applicable)				(310,000)	30,000	(340,000)
4. Percentage of Total Loss. Divide the total of each column on line 3 by column D, line 3.....				100	%	0.00
5. Federal Allowable Business Loss (see instructions)				(250,000)		(250,000)
6. Wage and unemployment adjustment (see instructions)						
7. Subtotal. If line 3, column E or F is negative, add lines 5 and 6. If line 3, column E or F is positive, add lines 3 and 6.....				(250,000)	30,000	(250,000)
8. Adjustment when either line 7, column E or line 7, column F is a positive number (see instructions)						(30,000)
9. Apportioned Allowable Business Loss as adjusted (see instructions)				(250,000)	30,000	(280,000)
10. Excess Business Loss (see instructions)						(60,000)

Example 3: Michigan residents, joint filer with Michigan losses and non-Michigan gains

Michigan residents, Jacob and Amy, are joint filers with business losses that exceed business gains by more than the \$500,000 limitation for joint filers. Their losses and gains were attributable to activity occurring in Michigan and other states. The allowable loss is comprised of a Michigan loss of \$563,750 and a non-Michigan gain of \$63,750. The non-Michigan gain of \$63,750 must be subtracted on Schedule 1. Jacob and Amy create a Michigan excess business loss NOL carryforward of \$5,000, which may be combined with other NOL deductions available for the following year.

A Business Name	B Federal Employer Identification Number (FEIN or SSN)	C Apportionment Percentage from MI-1040H, line 8 (if applicable)		D Federal Income (Loss) (Amount included in U.S. Form 461, line 14)		E Michigan Income (Loss) (Amount in column D attributable to business activity in Michigan)		F Non-Michigan Income (Loss) (Amount in column D attributable to business activity outside of Michigan)	
Company A	11-1111111	85	%	(700,000)	00	(595,000)	00	(105,000)	00
Company B	22-2222222	0	%	90,000	00		00	90,000	00
Company C	33-3333333	25	%	105,000	00	26,250	00	78,750	00
3. TOTAL. Add columns D, E and F. Include amounts from <i>Excess Business Loss Continuation Schedule</i> , Form 5606 (if applicable)				(505,000)	00	(568,750)	00	63,750	00
4. Percentage of Total Loss. Divide the total of each column on line 3 by column D, line 3				100	%	100.00	%	0.00	%
5. Federal Allowable Business Loss (see instructions)				(500,000)	00	(500,000)	00		00
6. Wage and unemployment adjustment (see instructions)					00		00		00
7. Subtotal. If line 3, column E or F is negative, add lines 5 and 6. If line 3, column E or F is positive, add lines 3 and 6				(500,000)	00	(500,000)	00	63,750	00
8. Adjustment when either line 7, column E or line 7, column F is a positive number (see instructions)						(63,750)	00		00
9. Apportioned Allowable Business Loss as adjusted (see instructions)				(500,000)	00	(563,750)	00	63,750	00
10. Excess Business Loss (see instructions)						(5,000)	00		00