

Instructions for Form 4898

Corporate Income Tax: Non-Unitary Relationships with Flow-Through Entities

Purpose

The purpose of this form is to gather information on the distributive share of flow-through income received throughout the tax year by taxpayers or members of a Unitary Business Group (UBG) from directly or indirectly owned flow-through entities (FTEs) that are not unitary with the taxpayer, where the flow-through income received is included in the taxpayers' or UBG members' federal taxable income figure.

General Information

This form is intended to only be used by a Corporate Income Tax (CIT) taxpayer (or member of a UBG) to report the distributive income it received from its interests in FTEs that are not unitary with that taxpayer or UBG. This form must be filed by any taxpayer that has received a distributive share of income from an FTE that the taxpayer is not unitary with. If the taxpayer is a UBG, then each member of the UBG that has received a distributive share of income from an FTE that the UBG is not unitary with must file this form. If more space is needed, use additional copies of Form 4898. Repeat the taxpayer's and UBG member's name and Federal Employer Identification Number (FEIN) (if applicable) at the top of every copy of Form 4898.

Flow-through entity means an entity that for the applicable tax year is treated as a subchapter S Corporation under section 1362(a) of the Internal Revenue Code (IRC), a general partnership, a trust, a limited partnership, a limited liability partnership, or a limited liability company, that for the tax year is not taxed as a C Corporation for federal income tax purposes.

A taxpayer is unitary with an FTE if the taxpayer:

- Owns or controls, directly or indirectly, more than 50% of the ownership interests with voting rights (or ownership interests that confer comparable rights to voting rights) of the FTE; AND
- The taxpayer and FTE have activities or operations which result in a flow of value between the taxpayer and the FTE, or between the FTE and another FTE unitary with the taxpayer, or has business activities or operations that are integrated with, are dependant upon, or contribute to each other.

The determination of whether a taxpayer is unitary with an FTE is made at the taxpayer level. If the taxpayer at issue is a UBG, the ownership requirement will be made at the UBG level. So, if the combined ownership of the FTE by the UBG is greater than 50%, then the ownership requirement will be satisfied.

An FTE is not unitary with a taxpayer when either of the tests above is not met.

Public Act (PA) 266 of 2013

PA 266 of 2013 authorizes an affiliated group election that applies an alternate test for finding a unitary relationship between corporations. This act **DID NOT** create a

corresponding "affiliated group" test for finding a unitary relationship between a corporation and an FTE. The existence of a unitary relationship between a corporation and an FTE is still based exclusively on the traditional two-part test described above.

Unitary Business Group means a group of United States persons that are C Corporations, insurance companies, or financial institutions, other than a foreign operating entity, that satisfies the control test and one of two relationship tests. If an Affiliated Group Election is made (see instructions for Form 4891), the UBG also includes all members of the affiliated group, as defined in IRC 1504 except that the group includes only US persons (no foreign persons or foreign operating entities) that are corporations, financial institutions or insurance companies that satisfy the control test and have made the election to file as a UBG. Once the election is made, the Affiliated Group is treated as a UBG for all purposes. See the General Instructions in the *CIT Forms and Instructions for Standard Taxpayers* (Form 4890) for more information on UBGs.

NOTE: An FTE owned directly or indirectly by a taxpayer or a member of a UBG may or may not be unitary with a taxpayer or UBG member. This form asks for information only on the flow-through entities that are NOT unitary with the taxpayer or UBG member. For those flow-through entities that are unitary with the taxpayer, use the *CIT Unitary Relationships with FTEs* (Form 4900).

Line-by-Line Instructions

Lines not listed are explained on the form.

Taxpayer Name and Account Number: Enter taxpayer name and account number as reported on page 1 of the *CIT Annual Return* (Form 4891).

Unitary Business Groups (UBGs): Complete one form for each member that is a C Corporation (including an entity taxed federally as such). Enter the Designated Member's (DM's) name and FEIN in the Taxpayer Name and FEIN fields and the name and FEIN of the member to whom the schedule applies on the line below.

Column A and B: Identify each non-unitary FTE by name and FEIN.

Column C: Column C: Enter the distributive income (loss) attributable to the non-unitary FTE listed in Column A and B that is included in the taxpayer's or UBG member's federal taxable income to the extent included in the corporate income tax base before apportionment. Enter loss as negative. A UBG member will enter the amount of distributive income (loss) that the member was distributed from each non-unitary FTE listed in Column A and B. For each UBG member, the sum of all distributive share of flow-through income (loss) entered in Column C shall equal the sum of all distributive share of flow-through income (loss) entered on line 32 of the *CIT Data on Unitary Business Group Members* (Form 4897).

To compute the amount required to be reported in Column C,

for each FTE listed in column A and B:

- Begin with the amount of distributive income (loss) included in federal taxable income.
- Adjust that amount by amounts attributable to the FTE that are included on the following lines of Form 4891: 13, 14, 15c, 19, 20, 21, 22, 23, 24, 28, 29, 30, and 31.
- Report the result in Column C.

Public Act 233 of 2013

Public Act 233 of 2013 provides that, in the case of an FTE that made the election to remain taxable under the MBT, each member of the FTE that does not file as a member of a UBG with the FTE shall disregard all items attributable to that member's ownership interest in the electing FTE for all purposes of the CIT. If the taxpayer owns an interest in an FTE that files an MBT return for a tax year that ends with or within this taxpayer's tax year, the taxpayer's distributive share of income (loss) from such FTE will be exempt from the taxpayer's corporate income tax base. Report distributive income (loss) exempt under 2013 PA 233 in column C, then leave Columns D and E blank.

Tiered Entities: In the event of a tiered entity, enter in this column the distributive share received from a non-unitary FTE in which the taxpayer has an indirect ownership interest. When computing the distributive share of income received from the non-unitary FTE in which the taxpayer has a direct ownership interest, only enter the direct income of that FTE. This is done by subtracting any distributive shares of income that this FTE received from another FTE.

Example: C Corporation 1 owns 50% of FTE B and FTE B owns 40% of FTE A. FTE B received from FTE A a distributive share of income of \$20,000. C Corporation 1 received from FTE B a distributive share of income of \$100,000. On the line corresponding to FTE A, C Corporation 1 would enter \$10,000. This is the indirect distributive share that C Corporation 1 received from FTE A and is calculated by multiplying C Corporation 1's ownership interest in FTE B by the distributive share FTE B received from FTE A:

$$50\% \times \$20,000 = \$10,000$$

On the line corresponding to FTE B, C Corporation 1 would enter \$90,000. This is the distributive share C Corporation 1 received from FTE B less the distributive share C Corporation 1 received from FTE A:

$$\$100,000 - \$10,000 = \$90,000$$

NOTE: The sum of the amount in every line on column C (plus, in the case of a UBG, the sum of column C for all other UBG members that filed this form) should equal the amount reported on Form 4891, line 27.

Column D: Enter in this column the non-unitary FTE's apportionment percentage. The non-unitary FTE's apportionment percentage is the FTE's sales factor. The sales factor is a fraction, the numerator of which is the total sales of the FTE in this state during the tax year and the denominator of which is the total sales of the FTE everywhere during the tax year. For more information on what is a sale, see the instructions for Form 4891. Use the information in

the "Sourcing of Sales to Michigan" section of Form 4890 to determine Michigan sales. Enter this amount as a percentage, carrying it out 4 digits to the right of the decimal point (i.e. 12.3456). **Do not enter the percent symbol (%).**

For FTEs whose distributive income (loss) is exempt under **2013 PA 233**, leave column D blank.

Column E: Enter the non-unitary flow-through distributive income after apportionment by multiplying the amount in column C by the apportionment percentage in column D for each FTE included on this form.

For FTEs whose distributive income (loss) is exempt under **2013 PA 233**, leave column E blank.

NOTE: The sum of column E (in the case of a UBG, the sum of column E for all UBG members) should equal the amount reported on Form 4891, line 35.

Include completed Form 4898 as part of the tax return filing.