Form 5773 Instructions (2023)

Purpose

This form supports the *Flow-Through Entity Annual Tax Return* (Form 5772) and must be completed by a taxpayer that is a member of another flow-through entity that meets the following criteria:

a) The other flow-through entity does not elect into the Flow-Through Entity tax (FTE tax) for the same tax year, and
b) The other flow-through entity has positive business income.

The business income tax base of such a taxpayer includes the Michigan portion of positive business income tax base attributable to any non-electing flow through entity. This form is used to calculate the applicable tax base flowing from each non-electing flow-through entity and apportion the shares to Michigan using the non-electing flow-through entity's sales factor. A flow-through entity that is not a member of a non-electing flow-through entity does not need to file this form. In addition, a distributive share of *loss* from a non-electing flow-through entity should not be reported on this form.

NOTE: To avoid data loss upon saving and submission, **do not** include punctuation in the names of members and entities when completing necessary return schedules. For example, enter the non-electing flow-through entity "ABC INC." as "ABC INC".

General Instructions

Report the applicable information for each non-electing flow-through entity's year that ends with or within the taxpayer's tax year.

> **Example:** Entity R owns a share of Entity S. R elects into the tax and S does not. R is a calendar year filer and is filing a return for the year ending 12/31/22. S has a fiscal year ending September 30. R reports on this form its distributive share of business income from R's tax year beginning 10/01/21 and ending 09/30/22.

For general information about additions, subtractions, and apportionment, see instructions for Form 5772.

For additional information regarding the calculation of the business income tax base within a tiered structure, refer to the "Tiered Structures" discussion within the instructions for Form 5772.

Line by line instructions

Name of Non-Electing Flow-Through Entity and related FEIN: Identify each flow-through entity by name and FEIN.

Total Share of Income: Report the filer's share of positive business income from the non-electing flow-through entity. See Form 5772 instructions, Line 2 for a description of business income. The share of positive business income reported here should correspond to the amount from that flow-through entity that was removed from the filer's business income on Form 5772, Line 3. The amount reported on this line should include positive business income regardless of the location to which it is sourced.

Additions. Report, to the extent not included in the amount reported in the Total Share of Income column, the filer's share of all additions attributable to the filer's distributive share from the non-electing flow-through entity. Sum all additions attributable to the non-electing flow-through entity and report as one amount. For additional information on the required additions, refer to the instructions for lines 5 through 12 on Form 5772.

Subtractions. Report, to the extent included in the amount reported in the Total Share of Income column, the filer's share of all subtractions attributable to the filer's distributive share from the non-electing flow-through entity. Sum all subtractions attributable to the non-electing flow-through entity and report as one amount. For additional information the required subtractions, please refer to the instructions for line 14 through 19 on Form 5772.

Income after Adjustments. MTO will calculate this amount, which is the filer's share of the business income tax base of the non-electing flow-through entity, prior to apportionment to Michigan.

Michigan Apportionment Factor. Report the non-electing flow-through entity's Michigan apportionment factor as a percentage based on the ratio of sales in Michigan during the tax year to the total sales everywhere during the tax year. The sales factor should be determined separately based only on the activity of each respective non-electing flow-through entity. For additional information on computing the Michigan sales factor, please refer to the instructions for Line 1 on Form 5772.

Michigan Share of Income. MTO will calculate this amount, which is the Michigan share of business income from the non-electing flow-through entity. The total of this column will carry to Form 5772, line 23.