



New York State Depreciation Schedule for IRC Section 168(k) Property

Use this form only for tax years beginning after December 31, 2002, and only for property placed in service inside or outside New York State after May 31, 2003.

Name(s) as shown on return Identifying number as shown on return

Check one box to show the income tax return you are filing and attach this form to that return.

IT-201, Resident IT-203, Nonresident and part-year resident IT-204, Partnership IT-205, Fiduciary

Part I — Depreciation information for Internal Revenue Code (IRC) section 168(k) property (except for resurgence zone property and New York liberty zone property described in IRC section 1400L(b)(2)) placed in service inside or outside New York State beginning after May 31, 2003 (see instructions).

Table with 8 columns: A Description of property, B Date placed in service, C Depreciable basis, D Recovery period, E Convention, F Method, G New York depreciation deduction, H Federal depreciation deduction. Includes a total line 1.

If you are filing Form: transfer the column G total to: transfer the column H total to: IT-201 line 30 line 22 IT-203 line 28 line 21 IT-204 line 10 line 9 IT-205 line 68 line 65

Part II — Year-of-disposition adjustment for IRC section 168(k) property (except for resurgence zone property and New York liberty zone property described in IRC section 1400L(b)(2)) placed in service inside or outside New York State beginning after May 31, 2003 (see instructions).

Table with 5 columns: A Description of property, B Date of disposition, C Method of disposition, D Total New York depreciation deduction, E Total federal depreciation deduction. Includes lines 2, 3, 4, 5 for totals and adjustments.

If you are filing Form: and column D is larger than column E, transfer line 5 amount to: and column E is larger than column D, transfer line 5 amount, to: IT-201 line 22 line 30 IT-203 line 21 line 28 IT-204 line 9 line 10 IT-205 line 65 line 68

Instructions

General instructions

For tax years beginning after December 31, 2002, New York State does not allow the federal depreciation deduction for Internal Revenue Code (IRC) section 168(k) property (except for resurgence zone property and New York liberty zone property described in IRC section 1400L(b)(2)), placed in service inside or outside New York State after May 31, 2003. You must figure your New York depreciation by using one of the methods provided for in IRC section 167 (for example, straight line or declining balance). The deduction for New York depreciation may be taken until the property is disposed of or fully depreciated.

If you claimed ACRS depreciation on your federal return for property placed in service beginning after May 31, 2003 (except for resurgence zone property and New York liberty zone property described in IRC section 1400L(b)(2)), complete Part I.

Use this form to figure your New York adjustments for New York depreciation and federal depreciation deductions.

As described in IRC section 168(k)(2), *resurgence zone property* is defined as qualified property if:

- substantially all use of the property is in the resurgence zone; and
- the use is in the active conduct of a trade or business by the taxpayer in the resurgence zone; and
- the original use by the taxpayer commences after December 31, 2002.

The *resurgence zone* is defined as the area of New York County bounded on the south by a line running from the intersection of the Hudson River with the Holland Tunnel, running east to Canal Street, then running along the centerline of Canal Street to the intersection of Bowery and Canal Street. It then runs in a southeasterly direction diagonally across the Manhattan Bridge Plaza to the Manhattan Bridge, along the centerline of the Manhattan Bridge to the point where the centerline would intersect with the east bank of the East River. It is bounded on the north by a line running from the intersection of the Hudson River with the Holland Tunnel, running north along West Avenue to the intersection of Clarkson Street. It then runs east along the centerline of Clarkson Street to the intersection of Washington Avenue, then running south along the centerline of Washington Avenue to the intersection of West Houston Street. It continues east along the centerline of West Houston Street, then at the intersection of Avenue of the Americas, continues east along the centerline of East Houston Street to the east bank of the East River.

If you have an interest in a passive activity, the modifications required under sections 612(b)(8) and (c)(16) of the Tax Law for federal depreciation and New York depreciation must be made for the full amounts allowable as a federal depreciation deduction (100%), even though the activity may be subject to federal loss deduction limitations. It is only under IRC section 469 (*Passive Activity Losses and Credits Limited*) that there is a limitation on passive loss deductions.

In the case of a partnership using IRC section 168 to determine depreciation, the individual partners will make the adjustments to income on their personal income tax returns. The adjustments for partners will be their distributive share of New York depreciation and federal depreciation determined by the partnership as of the end of the partnership year ending within the partner's tax year. Form IT-398 will be completed only by the partnership, and not by each individual partner. This treatment will be the same for a beneficiary of an estate or trust that is on a fiscal-year basis.

If you are a shareholder of an electing New York State S corporation, your proportionate share of the S corporation's depreciation deduction will be provided to you by the S corporation.

If you are a nonresident or part-year resident, you must complete Form IT-398 as if you were a New York State resident for the entire year. Transfer the amounts from Part I and Part II to Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*. For more information on the addition and subtraction modifications for federal and New York State depreciation, see Form IT-203-I, *Instructions for Form IT-203*.

If you are married and file a joint federal return but are required to file separate New York returns, complete only one Form IT-398 showing the amounts from your joint federal return. Attach a schedule to each return showing each spouse's separate amounts, as if separate federal returns were filed, and explain any differences.

Specific instructions

Enter your name and identifying number (your social security number or employer identification number) in the spaces provided on the front of this form. Check the box that indicates which New York State income tax return you are filing and attach this form to that return.

If you use a delivery service other than the U.S. Postal Service, see *Private delivery services* in the instructions for the return you are filing.

Part I — Depreciation

Depreciation is the annual deduction allowed to recover the cost or other basis of business or investment property having a useful life substantially beyond the tax year. However, land is never depreciable. Depreciation starts when you first use the property in your business or for the production of income. It ends when you take the property out of service, deduct all your depreciable cost or other basis, or no longer use the property in your business or for the production of income. (See Part II for the deduction to be taken in the year you dispose of the property.)

Column C — Enter the depreciable basis of the assets you place in service in the same year. *Depreciable basis* is the cost or other basis reduced by the part of the basis you elected to amortize or expense under IRC section 179, and any federal investment credit subtracted in figuring the federal unadjusted basis of the asset.

Column D — Enter the recovery period you used from federal Form 4562, column D.

Column E — The applicable convention determines the portion of the tax year for which the depreciation is allowable during a year property is either disposed of or placed in service. Enter in column E the convention you used from federal Form 4562, column E.

Column F — Enter the depreciation method you elect. You must use a method that is allowed under IRC section 167.

Column G — Enter your New York depreciation deduction in column G, based on the method you elected in column F.

Column H — Enter the depreciation deduction you took on your federal return.

Part II — Year-of-disposition adjustment

If you dispose of IRC section 168(k) property (except for resurgence zone property and New York liberty zone property described in IRC section 1400L(b)(2)) that you placed in service inside or outside New York State after May 31, 2003, you **must** adjust your New York State income by the difference between the total New York depreciation deduction and the total federal depreciation deduction claimed on that property.

Column C — Enter the method used to dispose of the property. *Disposition* includes, but is not limited to, sale, exchange, transfer, and obsolescence.

Column D — Enter the total New York depreciation deduction you claimed on the property you disposed of.

Column E — Enter the total federal depreciation deduction you claimed on your federal return for the disposition of your property.