





depreciation and IRC §179 benefits as "qualified New York Liberty Zone property."

"Qualified Resurgence Zone property" is "qualified property" used substantially in the Resurgence Zone in connection with the active conduct of a trade or business where the original use began with the taxpayer in the Resurgence Zone after September 10, 2001. The Resurgence Zone (defined in sections 11-507(22), 11-602.8(m) and 11-641(p) of the Administrative Code) generally encompasses the area in Manhattan between Canal Street and Houston Street.

The New York City Administrative Code, as amended pursuant to the authority granted under Part G of Chapter 93 of the Laws of 2002, limits the depreciation deduction for "qualified property," other than "qualified Resurgence Zone property," to the deduction that would have been allowed for such property under IRC §167 had the property been acquired by the taxpayer on September 10, 2001, and therefore, not been eligible for the enhanced deductions allowed by the Act or the 2003 Act. The Administrative Code also requires appropriate adjustments to the amount of any gain or loss included in entire net income or unincorporated business entire net income upon the disposition of any property for which the federal and New York City depreciation deductions differ. NOTE: Deductions for "qualified Resurgence Zone property," "qualified New York Liberty Zone property" and "qualified New York Liberty Zone leasehold improvements" are not affected by the above decoupling provisions other than for certain sport utility vehicles. The additional first-year expense deductions under IRC §179 also are not affected other than for certain sport utility vehicles. See below.

**Economic Stimulus Act of 2008.** Section 102 of the Economic Stimulus Act of 2008, Pub.L. No. 110-185, 122 Stat. 613 (Feb. 13, 2008) amended IRC section 168(k). As amended, section 168(k)(1)(A) provides a 50-percent additional first year depreciation deduction for certain new property acquired by the taxpayer after December 31, 2007, and before January 1, 2009 (in the case of certain property, before January 1, 2010), so long as no written binding contract for the acquisition of the property existed prior to January 1, 2008. However, as discussed above the Administrative Code limits the depreciation for "qualified property" other than "Qualified Resurgence Zone property" and "New York Liberty Zone property" to the deduction that would have been allowed for such property had the property been acquired by the taxpayer on September 10, 2001, and therefore, except for Qualified Resurgence Zone property, as defined in the Administrative Code and "New York Liberty Zone property", the City has de-

coupled from the federal bonus depreciation provision. The Administrative Code also requires appropriate adjustments to the amount of any gain or loss included in entire net income or unincorporated business entire net income upon the disposition of any property for which the federal and New York City depreciation deductions differ.

#### **Special Provisions for Certain Sport Utility Vehicles for Tax Periods Beginning on or After January 1, 2004**

Under Section 280F of the Internal Revenue Code, the federal depreciation deduction under sections 167 and 168 of the Internal Revenue Code and the expense in lieu of depreciation deduction under section 179 of the Internal Revenue Code for certain passenger automobiles are generally limited to the amounts provided in section 280F(a)(1) of the Internal Revenue Code. Congress passed legislation that limits the amount deductible for certain sport utility vehicles. That legislation does not affect the modifications required for City tax purposes described below.

For tax years beginning on or after January 1, 2004, in determining ENI of taxpayers, other than eligible farmers (for purposes of the New York State farmers' school tax credit), the amount allowed as a deduction for New York City purposes (for either depreciation or expense in lieu of depreciation) with respect to a sport utility vehicle (SUV) that is NOT a passenger automobile for purposes of section 280F(d)(5) of the Internal Revenue Code is limited to the amount that would be allowed under section 280F(a)(1) of the Internal Revenue Code if the vehicle were a passenger automobile as defined in section 280F(d)(5). For all SUVs subject to these special provisions, the amount allowed as a deduction is calculated as of the date the SUV was actually placed in service and not as of September 10, 2001. (The date that is applicable to qualified property, other than qualified Resurgence Zone property and New York Liberty Zone property, under the general post-9/11/01 decoupling provisions). On the disposition of an SUV subject to this limitation, the amount of any gain or loss included in ENI must be adjusted to reflect the limited deductions allowed for City purposes under this provision. See Finance Memorandum 08-2, "Application of IRC §280F Limits to Sport Utility Vehicles".

**Economic Stimulus Act of 2008.** As discussed above, the Economic Stimulus Act of 2008 amended IRC section 168(k) to provide bonus depreciation for certain property acquired in 2008. The Act also amended §168(k)(2)(F)(i) to increase the first year depreciation allowed under §280F(a)(1)(A) by \$8,000 for passenger automobiles to which the 50-percent additional first year depreciation deduction applies. NOTE: the Eco-

nomics Stimulus Act will only affect the applicable City SUV limits with respect to the recovery of the costs of **Qualified Resurgence Zone property** under the Unincorporated Business Tax (UBT) and the Bank Tax.

Pursuant to the generally applicable decoupling provisions discussed on pages 2 and 3 of this form, bonus depreciation under IRC 168(k) is only available for qualified New York Liberty Zone property and Qualified Resurgence Zone property. For GCT purposes, SUVs cannot qualify as either Qualified New York Liberty Zone property or Qualified Resurgence Zone property. See Administrative Code §§ 11-602(8)(k) and 11-602(8)(o). Therefore, under the GCT no bonus depreciation is permitted.

For UBT and Bank Tax purposes, with respect to SUV's placed into service after December 31, 2007 and before January 1, 2009, bonus depreciation is available only for SUVs that are "Qualified Resurgence Zone property." (In order to be "Liberty Zone property," an SUV had to be placed in service before January 1, 2006.) See Finance Memorandum 08-2 for more information.

#### **WHO MUST USE THIS FORM**

A corporation or unincorporated business that files a

- NYC-3L or NYC-4S  
General Business Corporations
- NYC-202 or NYC-204  
Unincorporated Businesses
- NYC-1  
Banking Corporations  
must use Form NYC-399Z if:
  - 1) it claims for federal purposes a depreciation deduction pursuant to the Act for "qualified property", or the 2003 Act other than "qualified Resurgence Zone property," "qualified New York Liberty Zone property," and "qualified New York Liberty Zone Leasehold improvements;" or the Economic Stimulus Act of 2008, other than "Qualified Resurgence Zone property" and "New York Liberty Zone property," or
  - 2) it is not an eligible farmer (for purposes of the New York State farmers' school tax credit) and it claims for federal purposes a depreciation deduction or an expense deduction in lieu of depreciation deduction under section 179 of the Internal Revenue Code for an SUV that is NOT a passenger automobile for purposes of section 280F(d)(5) of the Internal Revenue Code (regardless of whether the SUV is "qualified property" under the Act or 2003 Act or Economic Stimulus Act of 2008).

**NOTE**

Corporations and unincorporated businesses meeting the criteria set forth in #1 or #2 above are not permitted to file on Form NYC-4S EZ (General Corporation Tax) or Form NYC-202S (Unincorporated Business Tax).

**SPECIFIC INSTRUCTIONS****SCHEDULE A1**

The purpose of this schedule is to compute the allowable New York City depreciation deduction. This form has been designed to be used with the federal depreciation schedule, Form 4562 (Rev. March 2002 or later). A copy of the federal form must accompany this Form NYC-399Z. Taxpayers with SUVs subject to the special provisions use Schedule A2 and not Schedule A1. Do not complete Schedule A1 unless you have property other than an SUV subject to the general post-9/11/01 decoupling provisions.

**Column A**

Enter a brief description of each item of "qualified property," other than "qualified Resurgence Zone property," "qualified New York Liberty Zone property" and "Qualified New York Liberty Zone Leasehold improvements," included in part II or III of federal Form 4562.

**Column B**

For each item of property listed in column A, indicate the property class type used in computing the federal deduction. Use "UPM" for property which is depreciated under the unit of production method provided in IRC §168(f)(1).

**Column D**

The cost or other basis entered in this column must be the same amount used for federal purposes prior to any reduction for the special depreciation allowance for qualified property.

**Column G**

Indicate the depreciation method selected for the computation of the New York City allowable depreciation deduction. Any method used to compute depreciation that would have been allowed under IRC §167, had the property been acquired on September 10, 2001, will be acceptable. This includes such methods as straight-line depreciation, declining balance depreciation, sum-of-the-years-digits method or any other consistent method.

**Column I**

Enter depreciation computed by the method indicated in column G computed as IRC §167 would have applied had the property been acquired on September 10, 2001. Total of this column will be the amount allowable as a deduction for New York City.

**LINE 1a**

Enter total of columns F and I on lines 4 and 5 of Schedule C, as indicated.

If you have disposed of "qualified property" other than "qualified Resurgence Zone property," "qualified New York Liberty Zone property" or "qualified New York Liberty Zone leasehold improvements," in any year after the year of acquisition, you must complete Schedule B.

**SCHEDULE A2****Column A**

Enter the year, make and model for each SUV.

**Column B**

Indicate the property class type used or that would be used in computing federal depreciation for each SUV.

**Column D**

The amount entered in this column must be equal to the cost or other basis used for federal purposes prior to any special depreciation allowances for qualified property and prior to the expense in lieu of depreciation deduction allowed under section 179 of the Internal Revenue Code.

**Column E**

Enter the total New York City depreciation taken in prior years including, for years prior to 2008, the amount of any deduction taken under section 179 of the Internal Revenue Code for New York City purposes.

**Column F**

For each SUV, enter the sum of the amount of the federal depreciation deduction taken and amount of any federal expense in lieu of depreciation deduction taken under section 179 of the Internal Revenue Code for the current tax period.

**Column I**

The amount entered in column I should be the total amount that may be deducted for New York City purposes in the current tax year for an SUV subject to the special provisions. See Finance Memorandum 08-2, "Application of IRC §280F Limits to Sport Utility Vehicles".

**SCHEDULE B****Column A**

Enter each item of property disposed of during the taxable year separately. Attach a rider if additional room is needed.

**Column D**

Enter for each item of property the total amount of federal deductions used in the computation

of prior years' federal taxable income. For an SUV subject to the special provisions, the amount entered in Column D should include any amount deducted under section 179 of the Internal Revenue Code.

**Column E**

Enter for each item of property the total amount of New York City deductions used in the computation of prior years' New York City entire net income.

**Column F**

For any item of property, if column D exceeds column E, subtract column E from column D and enter the excess in this column.

**Column G**

For any item of property, if column E exceeds column D, subtract column D from column E and enter the excess in this column.

**LINE 2**

Add the amounts in column F and enter the total on line 2 and on Schedule C, line 7a.

**LINE 3**

Add the amounts in column G and enter the total on line 3 and on Schedule C, line 7b.

**SCHEDULE C****LINE 8**

Enter the amount on line 8A as an addition on the applicable New York City tax return. Use the following lines. Attach an explanation.

NYC-3L - Schedule B, line 6d  
 NYC-4S - Schedule B, line 4  
 NYC-202 - Schedule B, line 10d  
 NYC-204 - Schedule B, line 14d  
 NYC-1 - Schedule B, line 8

Enter the amount on line 8B as a deduction on the applicable New York City tax return. Use the following lines. Attach an explanation.

NYC-3L - Schedule B, line 16  
 NYC-4S - Schedule B, line 6b  
 NYC-202 - Schedule B, line 16  
 NYC-204 - Schedule B, line 20  
 NYC-1 - Schedule B, line 18