

GENERAL INFORMATION

DO NOT USE THIS FORM TO REPORT ADJUSTMENTS RELATING TO BONUS DEPRECIATION ALLOWED UNDER FEDERAL LEGISLATION ENACTED IN 2002 AND LATER. DO NOT USE THIS FORM FOR THE SPECIAL DEPRECIATION ADJUSTMENTS FOR CERTAIN SPORT UTILITY VEHICLES. USE FORM NYC-399Z.

For taxable years beginning on or after January 1, 1982, and before January 1, 1994, the federal depreciation deduction permitted under Internal Revenue Code Section 168 (the Accelerated Cost Recovery System - ACRS or Modified Accelerated Cost Recovery System - MACRS) was not permitted to be used in determining taxable income for General Corporation Tax, Banking Corporation Tax and Unincorporated Business Tax purposes. (See exceptions below.) In place of the federal ACRS or MACRS depreciation deduction, a depreciation deduction computed by any other method permitted under IRC Section 167 (as such section would have applied to property placed in service on December 31, 1980) was allowed. For property placed in service outside New York State for tax years beginning after December 31, 1984 but before January 1, 1994, The New York State Supreme Court, Appellate Division, in *R.J. Reynolds Tobacco Co. v City of New York Department of Finance*, 237 A.D. 2d 6, 667 N.Y.S.2d 4 (1st Dept. 1997), held that the New York City provision disallowing the use of ACRS or MACRS was unconstitutional. Accordingly, taxpayers will now be allowed to claim the same depreciation as was claimed on the federal tax return for property placed in service outside New York State in those tax years as provided in Finance Memorandum 99-4 "Depreciation for Property Placed in Service Outside New York After 1984 and before 1994".

Exceptions

A depreciation deduction computed under ACRS or MACRS may be used for:

- property placed in service in New York State in taxable years beginning on or after January 1, 1985;
- property placed in service outside New York State in taxable years beginning after 1984 and before 1994 for which the taxpayer intends to use ACRS or MACRS depreciation as provided in Finance Memorandum 99-4 "Depreciation for Property Placed in Service Outside New York State After 1984 and Before 1994" included with these materials.
- property placed in service outside of New York State in taxable years beginning on or after January 1, 1994;
- recovery property subject to the provisions of IRC Section 280-F (such as luxury automobiles) for taxable years ending after June 18, 1984;
- property of a taxpayer subject to the General Corporation Tax principally engaged in the conduct of an aviation, steamboat, ferry or navigation busi-

ness, or two or more such businesses, which is placed in service in taxable years beginning before January 1, 1989, or after December 31, 1993.

WHO MUST USE THIS FORM

A corporation or unincorporated business must use Form NYC-399 if it claims an ACRS or MACRS deduction for property for federal purposes that does not fall within the exceptions above, and it files one of the following New York City tax reports:

- NYC-3L or NYC-4S
General Business Corporations
- NYC-202 or NYC-204
Unincorporated Businesses
- NYC-1
Banking Corporations

SPECIFIC INSTRUCTIONS

SCHEDULE A

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. A copy of the federal form must accompany this Form NYC-399.

Only property placed in service in taxable years beginning after December 31, 1980, but before January 1, 1985, and property placed in service outside New York State in taxable years beginning after December 31, 1984, and before January 1, 1994 for which the taxpayer DOES NOT intend to use ACRS or MACRS depreciation (see the second bulleted exception above), (except for Section 280-F property and property of a taxpayer subject to the General Corporation Tax principally engaged in the conduct of an aviation, steamboat, ferry or navigation business, or two or more such businesses, which is placed in service before taxable years beginning in 1989 or after 1993) should be entered in this schedule.

Column A

Enter a brief description of each item of property described above included in part III, federal Form 4562.

Column B

For each item of property listed in column A, indicate the "class of property" used in computation of the federal ACRS or MACRS deduction. Use "UPM" for property placed in service after December 31, 1980, which is depreciated under the unit of production method provided in IRC Section 168(f)(1).

Column D

The cost or other basis entered in this column must be the same amount used for federal purposes. Property placed in service in 1981 must be shown at the original cost and should not be reduced by any depreciation claimed in 1981.

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 Section 167 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. Total of this column will be the depreciation allowable as a deduction for New York City. Enter the total amount on the appropriate line of your New York City tax return.

LINE 1

Enter total of columns F and I on lines 4 and 5 of Schedule C. If you have disposed of "recovery property" you must complete Schedule B.

SCHEDULE B

Column A

Enter each item of property separately. Attach a rider if additional room is needed.

Column D

Enter for each item the total amount of ACRS or MACRS deductions used in the computation of the prior year's federal taxable income.

Column E

Enter for each item the total amount of New York City depreciation deductions used in the computation of prior years' entire net income. For 1981 recovery property, the New York City depreciation deduction was the same as the ACRS or MACRS deduction and must be included in this column.

Column F

If the total ACRS or MACRS deduction exceeds total New York City depreciation, subtract column E from column D and enter the excess in this column.

Column G

If the total New York City depreciation exceeds ACRS or MACRS deductions, subtract column D from column E and enter the excess in this column.

LINE 2

Total column F and enter amount on line 6, Schedule C.

LINE 3

Total column G and enter amount on line 7, Schedule C.

SCHEDULE C

LINE 8

Enter the amount on line 8A, the federal adjustment, as an addition and the amount on line 8B, the New York City adjustment, as a deduction on the applicable New York City tax return.