

1985 Legislation

Law Changes Pertaining to ACRS Property
and New York State Depreciation Modifications

Chapter 43 of the Laws of 1985 amended Articles 9-A, 32 and 33 with respect to modifications required in computing New York State entire net income for ACRS property.

For taxable years beginning after December 31, 1984, New York State will accept the federal ACRS deduction for property placed in service in New York State. However, a modification will still be required for recovery property not placed in service in New York State, recovery property acquired in prior years (regardless of whether or not such property was placed in service in New York State), and recovery property placed in service in New York State after December 31, 1984 which subsequently loses its New York situs as in a disposition or sale. Note: Such property may be used within and without the state in the conduct of the taxpayer's business but must retain a New York situs.

For taxable periods ending after June 18, 1984, New York State will accept the federal accelerated cost recovery system ACRS deduction for recovery property subject to the provisions of Section 280F of the Internal Revenue Code (such as luxury automobiles), in the same amounts as were allowable for federal purposes.

For taxable years beginning on or after January 1, 1984, except for IRC Section 280F property as indicated in the preceding paragraph, or ACRS property placed in service in New York State in taxable years ending after December 31, 1984, provided such property retains a New York situs, or where an ACRS deduction has not been excluded from entire net income as a result of a safe harbor lease arrangement, a taxpayer will be allowed a depreciation deduction for recovery property that would have been allowed under Section 167 of the Internal Revenue Code. Under the prior law, where ACRS property was fully depreciated for federal purposes but not for New York State purposes, a taxpayer could not claim any additional depreciation on such property in subsequent years but would have to wait until the year of disposition or sale of the property to make any adjustment to the federal gain or loss.

The amendments made by Chapter 43 of the Laws of 1985 apply to Sections 208.9(b)(10 and 208.9(j) of Article 9-A, 1453(b)(9) and 1453(e)(7) of Article 32 and 1503 (b) (2) (M) and 1503(b)(10) of Article 33 of the Tax Law.