New York State Department of Taxation and Finance

IT-211-I Instructions for Form IT-211

(7/86)

Special Depreciation and Expenditure Schedule

General Instructions

In lieu of the deduction for depreciation or certain expenditures allowable for federal income tax purposes, an individual, partnership, estate or trust may, in accordance with Section 612(g) of the Tax Law, elect to deduct **special depreciation.** This deduction shall not be in excess of twice that allowed for federal purposes on qualifying property acquired before 1969 OR any amount expended during the taxable year for **research and development expenditures** for the construction, erection or acquisition of depreciable, tangible business property located in New York State. Special depreciation and research and development expenditures are defined below.

Note: The deduction for special depreciation has been discontinued for property acquired after December 31, 1968, **except** in certain cases where qualified property was acquired after that date under a bona fide plan, contract, order or other binding commitment in effect on December 31, 1968 or where physical construction of the property began before January 1, 1969. In lieu of this deduction, the taxpayer is allowed an investment credit for taxable years ending after December 31, 1968. If a taxpayer elects to claim the investment credit on qualified property, he may **not** claim the deduction for **either** special depreciation or research and development expenditures. If a taxpayer elects to claim the research and development credit on qualified property, he may **not** claim the deduction for special depreciation.

The investment credit is claimed on Form IT-212, *Investment Credit and Retail Enterprise Credit*, and the research and development credit is claimed on Form IT-217, *Research and Development Credit*, which may be obtained from the New York State Department of Taxation and Finance, Forms Control, W.A. Harriman Campus, Albany, NY 12227.

An election made by an individual, partnership, estate or trust is binding for all succeeding taxable years unless the New York State Tax Commission consents to a change in such election.

Definitions

Special depreciation is the deduction allowed on certain depreciable property newly acquired before 1969, not to exceed twice the amount of federal depreciation allowed on the same item of qualified property (see *Classification of Property* in these instructions). This deduction is allowed to the extent that any amount for depreciation or amortization that was excluded or deducted on the item of property in arriving at your federal adjusted gross income must be added back to federal adjusted gross income before computing total New York income.

For taxable years beginning on or after January 1, 1968, no deduction for depreciation will be allowed for the portion of tangible personal property that is rented or leased to another person or corporation.

Research and development expenditures are expenditures paid or incurred during the taxable year for the construction, reconstruction, erection or acquisition of certain qualified property (see *Classification of Property* in these instructions) for research and development use in the experimental laboratory sense. This does **not** include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literary, historical or similar projects.

This deduction is allowed to the extent that any amount that was excluded or deducted for such expenditures in arriving at your federal adjusted gross income, except to the extent that the basis of the qualified property may be due to factors other than such expenditures must be added back to federal adjusted gross income before computing total New York income.

Qualifying property means tangible property which

(1) is depreciable pursuant to Section 167 of the Internal Revenue Code, and

(2) has situs in New York State, and

(3) is used in the taxpayer's trade or business, and

(4) if constructed, reconstructed or erected by the taxpayer, was completed after December 31, 1963 (and then only with respect to that portion of the basis thereof or the expenditures relating thereto which is properly attributable to such construction, reconstruction or erection after December 31, 1963), or

(5) if purchased by the taxpayer, was acquired in a transaction (which constitutes a purchase as defined in Section 179(d) of the Internal Revenue Code) consummated after December 31, 1963 provided the original use of the property commenced with the taxpayer, in New York State, and after December 31, 1963.

Research and experimental expenditures treated as deductible expenses under Section 174(a) of the Internal Revenue Code or as amortizable deferred expenses under Section 174(b) of the Internal Revenue Code do **not** constitute qualifying property.

Trade or business means any activity the income from which would have been subject to the unincorporated business tax under Article 23 of the Tax Law, or which would have been subject to such tax except for the practice of certain professions as described under Section 703(c) of the Tax Law, if such tax were imposed for the taxable year.

Qualifying property is used in the trade or business when it is utilized in the actual course of the regular business operations of the taxpayer. The holding of property for investment purposes does not constitute the use of property in a trade or business.

Classification of Property

Class A — 1) Original use of property began in NY State by the taxpayer after December 31, 1963;

2) acquired, constructed, reconstructed or erected after December 31, 1963 by a contract which was, on or before December 31, 1967 and at all times thereafter, binding on the taxpayer;

3) the physical construction, reconstruction or erection began on or before December 31, 1967 or if begun after that date by an order or an order by purchase as defined by Section 179(d) of the Internal Revenue Code placed on or before December 31, 1967; and

4) acquired, constructed, reconstructed or erected after December 31, 1967 under a plan of the taxpayer which was in existence on December 31, 1967 and not substantially changed and such acquisition, construction, reconstruction or erection would qualify under Section 48(h) paragraphs (4), (5) or (6) of the Internal Revenue Code.

5) This deduction is allowed only if the tangible property was delivered or the construction reconstruction or erection was completed on or before December 31, 1969.

Class B — For property acquired, constructed, reconstructed or erected on or after January 1, 1968 under the same conditions as Class A property, except that the elective deduction for special depreciation will be allowed only on property that is principally used by the taxpayer in the production of goods by manufacturing and certain other similar processes and activities as defined under Section 612(g) (4) of the Tax Law.

Note: For any taxable period beginning on or after January 1, 1968, the deduction for special depreciation with respect to tangible property leased or rented to any person or corporation will **not** be allowed.

Limitation on Amount of Deduction

(1) Only **one** election, for either the deduction for special depreciation or the deduction for research and development expenditures, may be made.

(2) For Class A and B property, the total of all deductions in any taxable year(s) may not exceed the cost or other basis of the property for federal income tax purposes.

(3) For Class B property which is used in a business carried on both inside and outside NY State, the total allowable deductions for any taxable year(s) may not exceed the federal cost or basis multiplied by the percentage of the business income allocated to NY State for the taxable year for which the deduction is first claimed.

(4) For property that is used or to be used for research or development only in part or during only part of its useful life, the deduction for research and development expenditures is limited to a proportionate part of the expenditures relating to such property.

Reporting change in use of research or development property— If a deduction for research and development expenditures has been allowed for qualifying property and such property is used for purposes other than research or development to a greater extent than originally reported, the taxpayer must report such use in the return for the first taxable year during which it occurs. In such cases, the NY State Tax Commission may recompute the tax for the year(s) for which the deduction was made and may assess any additional tax resulting from such recomputation within the time fixed under Section 683(c) (7) of the Tax Law.

Changes in Classification of Qualifying Property

Class A Property — Leased to others — For taxable years prior to January 1, 1968, where the taxpayer claimed an elective depreciation deduction on rented or leased qualifying tangible personal property to another person or corporation, the amounts allowed for depreciation for federal income tax purposes are not required to be added to federal adjusted gross income for a taxable year beginning after December 31, 1967 until the total of the New York deductions previously allowed equals the original federal cost or basis. If, upon sale or other disposition, the basis of the property (adjusted to reflect the elective depreciation adjustments previously allowed) is lower than its federal basis, adjustments in accordance with Sections 612(g) (6) of the Tax Law must be made, where applicable, for the taxable year such sale or disposition of the property occurs.

Example: If tangible personal property leased to others and subject to an elective depreciation adjustment for 1966 and 1967 had an original cost of $21,000, a New York adjusted basis of $9,000 and a federal adjusted basis of $15,000 as of December 31, 1967, reflecting federal depreciation at the rate of $3,000 annually, no adjustment under Section 612(b) (6) is required until the remaining New York basis has been recovered through the regular federal depreciation deduction which would occur at the end of 1970 in this case. If the property is sold at a time when the federal adjusted basis exceeds the New York adjusted basis, the excess is to be added back in accordance with Section 612(g) (6). Therefore, upon a sale of the property in January of 1971, when the federal basis would be $6,000 and the New York basis "zero," the amount to be restored would be $6,000.

Where only a prorated portion of the special depreciation deduction is allowed, in the case of property used partly for purposes other than leasing, a similar proration is made with respect to the other related statutory adjustments.

Class B Property — Treatment after maximum allowance of elective deduction — Where the total of all elective depreciation deductions allowed with respect to an item of Class B property is limited to a percentage of the cost or other basis of such property because the business in which it is used is carried on both inside and outside New York State, the amounts allowed

for depreciation for federal income tax purposes are not required to be added to federal adjusted gross income between the time the total of such deductions equals the maximum allowable by reason of the allocation percentage limitation referred to above and the time such total equals the full cost of the property.

Example: A taxpayer, doing business both inside and outside New York State, acquired qualifying property at a cost of $60,000 in 1968 when he had a 40% business allocation and elected to claim special depreciation equal to twice the federal deduction. Federal depreciation was allowed in the amounts of $6,000 for 1968 and $7,500 for 1969 and subsequent years. The amounts to be reported for New York purposes are:

1968 –	NY elective depreciation	$12,000	
	Adjustment for federal amount	6,000	
	Accumulated NY State depreciation (12/31/68)		$12,000
1969 –	Tentative NY elective depreciation	$15,000	
	Tentative adjustment for federal amount	7,500	
	Tentative accumulated NY State depreciation (12/31/69)		$27,000
	Maximum elective depreciation allowable (40% of $60,000)		24,000
	Excess accumulated depreciation		$ 3,000
	Allowable 1969 depreciation ($15,000 minus $3,000)		$12,000

1970 and Subsequent Years –

No deduction for special depreciation is permitted and the amounts allowed for depreciation for federal income tax purposes are not required to be added to federal adjusted gross income. Ordinary depreciation rules (federal depreciation at the rate of $7,500 per year) are allowable subject to taxpayer's standard annual business allocation percentage up to the time NY accumulated depreciation equals federal cost basis.

If, in the foregoing example, the property is held through 1974, the depreciation for 1974 will be limited to $6,000 (i.e., the amount needed to make the total of the New York depreciation deductions for all years equal to the federal cost) and no further depreciation allowance will be made with respect to such property for New York State purposes after the total New York depreciation equals the original $60,000 cost basis (around October 20, 1974). The amounts allowed for depreciation for federal income tax purposes that are required to be added to federal adjusted gross income are $1,500 for 1974, $7,500 for 1975 and $1,500 for 1976 when the property becomes fully depreciated for federal income tax purposes.

If Class B research and development property, subject to an elective deduction is used in a business that is carried on both inside and outside New York State, then the preceding example applies.

Adjustment of basis upon sale or disposition – In any taxable year when property is sold or otherwise disposed of for which a deduction for **either** special depreciation or research and development expenditures has been allowed, the basis of such property must be adjusted to reflect the deduction allowed.

If the adjusted basis for New York purposes is lower than the adjusted basis of the same property for federal income tax purposes, then the difference between the adjusted bases must be added to federal adjusted gross income.

The NY State basis of property is the federal original cost or other basis less the aggregate of amounts allowed for special depreciation for all taxable years from the year of acquisition to and including the year of sale or other disposition. The NY State basis of qualifying property used for research and development purposes for which a full deduction has been allowed is "zero."

If the gain or loss from the sale or disposition is considered a long-term capital gain or loss for federal income tax purposes, the amount to be added to federal adjusted gross income is limited to:

- 50% of the difference between the adjusted basis for all taxable years beginning prior to January 1, 1972 and
- 60% of the difference between the adjusted basis for taxable years beginning on or after January 1, 1972 and
- 40% of the difference between the adjusted basis for taxable years beginning on or after January 1, 1982.

A sale or disposition of qualifying property includes any transfer or exchange without regard to whether gain or loss from the transaction is recognized for federal income tax purposes.

Carryover of unused deductions – If the deductions allowable for any taxable year exceed the taxpayer's New York adjusted gross income, before the allowance of such deductions, the excess may be carried over to the following taxable year or years of the same taxpayer and subtracted from federal adjusted gross income for that year(s). If a carryover is claimed, complete details of the computation of the carryover must be submitted with the taxpayer's NY State personal income tax return.

Specific Instructions

Print or type in the space provided at the top of page 1, your name and social security number or employer identification number as it appears on the return with which Form IT-211 is being filed. Enter the tax year information and check the box to indicate the return with which Form IT-211 is being filed.

(For *Privacy Act Notification,* see the instructions for Form IT-201, IT-203, IT-204 or IT-205.)

Parts I, II and III

These parts are to be completed by all electing individuals, partnerships, estates and trusts. Property reported in these schedules should be entered in sufficient detail to permit identification of the specific items and consideration must be given to the limitations of the amount allowable as an elective deduction with respect to any item of property. Additional schedules may be attached as needed. If Form IT-211 includes

items of Class A and Class B qualifying property, a separate schedule should be prepared for each class and the totals of each class should be combined for use in Part IV or Part V of this form. Where Class B qualifying property is used in a business carried on both inside and outside NY State, the New York business allocation percentage for the first year for which an elective deduction is made is to be reported as part of the description of each item of property reported in Parts I, II and III.

Part IV - Summary for Individuals, Estates and Trusts

This part is to be completed by electing individuals or estates and trusts. Enter on lines 7 through 9 and lines 11 and 12 the amounts obtained from the various sources indicated in Part IV and transfer the amounts computed on lines 10 and 13 to the appropriate tax return lines as directed.

Note: If an amount computed at line 10 or 13 is reportable in a fiduciary return (Form IT-205 or IT-205-A) and is attributable to items which are not reflected in the federal distributable net income of the estate or trust, the entry in the fiduciary return should be made on line 6 of Form IT-205 or line 6, Schedule 1 of Form IT-205-A if allocation is required. (Any amount computed on line 10 should be treated as an item of addition on Form IT-205 or IT-205-A.)

Part V — Summary for Partnerships

This part is to be completed by all electing partnerships. All partnerships which have made an election must summarize the deduction and related adjustments which will apply to the personal income tax returns of the member partners. The net amount for each partner, Part V, Column F, will be either an addition to or a subtraction from the federal adjusted gross income of the partner as shown in his NY State personal income tax return.

Note: Part V is designed to result in a separate computation of the elective deductions and related adjustments of each partner. Therefore, Form IT-204, *Partnership Return,* must be completed, without regard to the elective deduction, before completing this part. If the gain or loss from the sale of property which requires an adjustment to basis in Column C of Part V is a long-term capital gain or loss for federal income tax purposes, the amount in that column to be reported in the personal income tax returns of each partner is to be reduced by:

- 50% for all taxable years beginning prior to January 1, 1972 and
- 40% for all taxable years beginning on or after January 1, 1972 and
- 60% for all taxable years beginning on or after January 1, 1982.

Attach Form IT-211 to Form IT-201, IT-203, IT-204 or IT-205.