

**CT-399-I**

(7/88)

Instructions for Form CT-399

Schedule for Depreciation Adjustments

General Information

General business corporations, banking corporations, and insurance corporations must use Form CT-399 to compute the depreciation modifications required by Articles 9-A, 32 and 33 when determining New York State taxable income.

A corporation will not usually be allowed to deduct depreciation computed under Internal Revenue Code (IRC) Section 168 (including Accelerated Cost Recovery System (ACRS) depreciation) figured in accordance with the Federal Tax Reform Act of 1986 when determining New York State taxable income. Instead, a depreciation deduction computed by any method under IRC section 167 will be permitted.

However, no modifications are required for:

- Property placed in service in New York State in taxable years beginning after December 31, 1984.
- Property acquired after June 18, 1984 and subject to the limitation under IRC Section 280-F (such as luxury cars).

Property that has been fully depreciated under IRC section 168 (ACRS) for federal tax and not fully depreciated for New York. This is effective for taxable years beginning on or after January 1, 1984. Depreciation may continue to be claimed under IRC section 167 for New York State tax.

For more information see TSB-M-85(12)C.

Who Must Use This Form

A corporation must use Form CT-399 if it claims an ACRS deduction for property placed in service after December 31, 1980, and files one of the following New York State franchise tax returns:

- CT-3, CT-3-S or CT-4 (Article 9-A), general business corporations
- CT-32 (Article 32), banking corporations
- CT-33 (Article 33), insurance corporations

Specific Instructions

Computation of ACRS Depreciation Required to be Added Back

Use lines 1 through 4 to compute the portion of the ACRS deduction shown on federal Form 4562 that must be added back to federal taxable income when determining New York State entire net income. A copy of federal Form 4562 **must** accompany New York State Form CT-399.

Line 1 — Enter from federal Form 4562 the amount of ACRS included in the total federal depreciation deduction.

Line 2a — Enter the amount of ACRS depreciation deduction included on line 1 for property placed in service in New York State during taxable periods beginning after December 31, 1984.

Line 2b — Enter the amount of ACRS depreciation deduction included on line 1 for property acquired after June 18, 1984, that is subject to the limitation under IRC section 280-F.

Line 3 — Add lines 2a and 2b. Attach a separate sheet listing the property claimed on these lines. Include a brief description of the property, the date and place the property was put in service, and the cost or other basis.

Line 4 — Subtract line 3 from line 1 for the amount of the federal ACRS deduction that must be added back on your franchise tax return. This amount must equal the total on line 5, Column E. If it doesn't, attach an explanation.

Computation of Allowable New York State Depreciation Deduction

Column A — Enter a brief description of each item of property. Do not list any property included on line 3.

Column B — Enter the exact date the property was placed in service, including month, day and year.

Column C — Enter the cost or other basis on federal Form 4562. 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 D — Enter the total amount of federal ACRS deduction taken in prior years for each item listed.

Column E — Enter the federal ACRS deductions taken this year for each item listed. The total of this column must equal the amount on line 4. Enter this amount on the appropriate line of your franchise tax return.

Columns F and G — Indicate the depreciation method selected for the computation of the New York State allowable depreciation deduction. Any consistent method that would have been allowed under IRC section 167 without regard to section 168 will be acceptable, including straight line, declining balance, and sum of years-digits depreciation.

Column I — Enter the depreciation computed by the method indicated in Column F. The total of this column will be the depreciation allowable as a deduction for New York State. Enter the total amount on the appropriate line of your New York State franchise tax return.

Line 5 — If you have not disposed of any property acquired during tax years 1981 through 1988, you may stop here and enter the totals of Columns E and I on your franchise tax return:

If You File Form:	Enter Column E Total on:	and	Enter Column I Total on:
CT-3	line 8		line 15
CT-3-S	Schedule C, line 34		Schedule C, line 36
CT-4	line 5		line 7
CT-32	Schedule E, Part II, Col. E		Schedule E, Part II, Col. G
CT-33	Schedule G, line 57		Schedule G, line 66

If you have disposed of property, you must complete the rest of the form.

Schedule F**Recapture of Investment Tax Credit**

When property on which an investment tax credit has been allowed is disposed of or ceases to be in qualified use prior to the end of its useful life, the difference between the credit taken and the credit allowed for actual use must be added back to the tax otherwise due in the year of disposition or disqualification. In 1982 and 1987 Section 210.12(g) was amended to provide different formulas to be used to compute the amount of recaptured investment tax credit for property depreciated for federal purposes under Internal Revenue Code Sections 167 and 168.

- (1) For property depreciated under IRC Section 167, the formula for recapture of investment tax credit is:

$$\frac{\text{Months of Unused Life}}{\text{Months of Useful Life}} \times \frac{\text{Investment Tax Credit}}{\text{Allowed}}$$

- (2) For three-year property placed in service and depreciated under IRC Section 168, the formula for recapture of investment tax credit is:

$$\frac{\text{Months of Unused Life}}{36 \text{ Months}} \times \frac{\text{Investment Tax Credit}}{\text{Allowed}}$$

- (3) For property other than three year property, the formula for recapture of investment tax credit:

$$\frac{\text{Months of Unused Life}}{60 \text{ Months}} \times \frac{\text{Investment Tax Credit}}{\text{Allowed}}$$

- (4) For property that is a building or structural component of a building placed in service after December 31, 1980 and depreciated under IRC Section 168, the formula for recapture of investment tax credit is:

$$\frac{\text{Months of Unused Life}}{\text{Number of Months Allowed by IRC Section 168 and used by taxpayer}} \times \frac{\text{Investment Tax Credit}}{\text{Allowed}}$$

For taxable years beginning in 1987, property which is disposed of or ceases to be in qualified use will compute the recapture as follows:

(i) If the property was depreciated for New York State franchise tax purposes under IRC 167, use the life of the property as depreciated under IRC 167.

or

(ii) If the property was depreciated for New York State franchise tax purposes under IRC 168, use the life of the property as depreciated under IRC 168.

If qualified property has a useful life of more than 12 years, no credit need be added back if it has been in use for more than 12 consecutive years.

When an investment tax credit is allowed with respect to an air pollution control facility on the basis of a certificate of compliance issued pursuant to the environmental conservation law and the certificate is revoked pursuant to subdivision three of section 19-0309 of the environmental conservation law, such revocation shall constitute a disposal or cessation of qualified use and a recapture of investment tax credit is required.

For taxable years commencing on or after January 1, 1987, recapture of investment tax credit will be augmented by an additional recapture amount equal to the product of the original recapture amount and the interest rate in effect (without regard to compounding) on the last day of the taxable year. For applicable rates see Regulations, Part 603 or call toll free 1 800 CALL TAX (1 800 225-5829). From areas outside New York State, call (518) 438-8581.

If as of the close of any taxable year, there is a net increase in nonqualified nonrecourse financing, an amount equal to the decrease in the investment tax credit which would have resulted from the net increase in nonqualified nonrecourse financing must be recaptured.

In years that the taxpayer is not claiming an investment tax credit or additional investment tax credit, the recaptured tax credit must be added to the tax on Form CT-3, line 48. Investment tax credit recapture may be offset against investment tax credits claimed as provided on Form CT-46, Schedule A, Page 1.

Column (d) - Enter the life of property in months. Do not use years.

Column (e) - Enter the unused life in months.

Column (f) - Divide unused life in column (e) by the total life of the property in column (d) to obtain the percentage of unused life.

Column (g) - Enter the total amount of investment tax credit allowed. Include the original investment tax credit under Section 210.12 and any additional investment tax credit allowed under Sections 210.12-A and 210.12-D.

Column (h) - Multiply the total investment tax credit allowed by the percentage of unused life (column (g) x column (f)) to obtain the amount of recaptured investment tax credit.

Line 18 - Total column (h).

Line 19 - The additional recapture required to be added back is an amount equal to the product of the recaptured investment tax credit multiplied by the interest rate in effect on the last day of the taxable year.

Example:

\$1000 recaptured investment tax credit x 7.5% interest rate for 1987 = \$75 additional recapture.

Line 20 - Add lines 18 and 19 and enter on Line 6, Schedule A.

Refundable Unused Investment Tax Credit

For taxable years (excluding short periods) beginning on or after January 1, 1982, a corporation that is eligible to claim an investment tax credit and is also a new business as defined in Article 9-A, Section 210.12(j), may elect to receive a refund of its unused investment tax credit instead of carrying the credit forward. Section 210.12(j) defines a new business as any corporation except:

- a corporation in which over 50% of the number of shares of stock entitling their holders to vote for the election of directors or trustees is owned by a taxpayer subject to the tax under Article 9-A; Sections 183, 184, 185 or 186 of Article 9; Article 32; or Article 33 of the Tax Law;
- a corporation that is substantially similar in operation and in ownership to a business entity or entities taxable or previously taxable under Article 9-A; Section 183, 184, 185 or 186 of Article 9; Article 32; or Article 33; or that would have been subject to the tax under Article 23, as such article was in effect on January 1, 1980; or the income (or losses) of which is (or was) includable under Article 22 of the New York State Tax Law;
- a corporation that has been subject to tax under Article 9-A for more than four taxable years (excluding short periods) prior to the taxable year during which the taxpayer first becomes eligible for the investment tax credit.

This refund must be claimed on Form CT-46.1. For further information about the refund of unused investment tax credit by a new business see Form CT-46.1 and Technical Services Bureau Memorandum TSB-M-81(8)C.