



New York State Depreciation Schedule for IRC Section 168(k) Property

IT-398

Use this form only for property placed in service inside or outside New York State (NYS) after May 31, 2003.

Name(s) as shown on return	Identifying number as shown on return
----------------------------	---------------------------------------

Mark an X in one box to show the income tax return you are filing and submit this form with that return.IT-201, Resident ☐ IT-203, Nonresident and part-year resident ☐ IT-204, Partnership ☐ IT-205, Fiduciary ☐**Part 1** – Depreciation information for Internal Revenue Code (IRC) § 168(k) property [except for resurgence zone property and New York liberty zone property described in IRC § 1400L(b)(2)] placed in service inside or outside NYS, beginning after May 31, 2003 (*see instructions*)

A Description of property (use additional sheet if needed)	B Date placed in service (mmddyyyy)	C Depreciable basis	D Conv.	E Method	F New York depreciation deduction	G Federal depreciation deduction
		.00			.00	.00
		.00			.00	.00
		.00			.00	.00
		.00			.00	.00

1 Enter column F and column G totals..... **1** .00 .00

Transfer the column F total to:	Transfer the column G total to:
Form IT-225, line 10, <i>Total amount</i> column and enter subtraction modification S-213 in the <i>Number</i> column.	Form IT-225, line 1, <i>Total amount</i> column and enter addition modification A-209 in the <i>Number</i> column.

Part 2 – Year-of-disposition adjustment for IRC § 168(k) property [except for resurgence zone property and New York liberty zone property described in IRC § 1400L(b)(2)] placed in service inside or outside NYS, beginning after May 31, 2003 (*see instructions*)Mark an **X** in the box if you claimed an investment credit on Form IT-212, *Investment Credit*, for any property listed below (*see instructions*) ☐

A Description of property (use additional sheet if needed)	B Date of disposition	C Method of disposition	D Total New York depreciation deduction	E Total federal depreciation deduction
			.00	.00
			.00	.00
			.00	.00
			.00	.00

2 Enter column D and column E totals..... **2** .00 .00**3** Enter amount from line 2, column E..... **3** .00**4** Enter amount from line 2, column D..... **4** .00**5** Subtract line 4 from line 3 **5** .00Transfer the line 5 amount to Form IT-225, line 10, *Total amount* column and enter subtraction modification **S-214** in the *Number* column.

General instructions

For tax years beginning after December 31, 2002, NYS does not allow the federal special depreciation deduction for Internal Revenue Code IRC § 168(k) property [except for resurgence zone property and New York liberty zone property described in IRC § 1400L(b)(2)], placed in service inside or outside NYS after May 31, 2003. Instead, you are allowed a NYS depreciation deduction determined under IRC § 167, as that section would have applied to the property if it had been acquired on September 10, 2001. You may take the deduction for NYS depreciation until the property is disposed of or fully depreciated.

If you claimed accelerated cost recovery system (ACRS) depreciation on your federal return for property placed in service beginning after May 31, 2003 [except for resurgence zone property and New York liberty zone property described in IRC § 1400L(b)(2)], complete Part 1.

Use this form to compute your NYS adjustments for NYS depreciation and federal depreciation deductions.

As described in IRC § 1400L(b)(2), New York liberty zone property must have been placed in service on or before December 31, 2006, or in the case of nonresidential real property and residential rental property, on or before December 31, 2009.

Qualified resurgence zone property means qualified property described in IRC § 168(k) for which **all** of the following apply:

- substantially all use of the property is in the resurgence zone; **and**
- the use is in the active conduct of a trade or business by the taxpayer in the resurgence zone; **and**
- the original use by the taxpayer commences after December 31, 2002.

The **resurgence zone** is defined as the area of New York County bounded on the south by a line running from the intersection of the Hudson River with the Holland Tunnel, running east to Canal Street, then running along the centerline of Canal Street to the intersection of Bowery and Canal Street. It then runs in a southeasterly direction diagonally across the Manhattan Bridge Plaza to the Manhattan Bridge, along the centerline of the Manhattan Bridge to the point where the centerline would intersect with the east bank of the East River. It is bounded on the north by a line running from the intersection of the Hudson River with the Holland Tunnel, running north along West Avenue to the intersection of Clarkson Street. It then runs east along the centerline of Clarkson Street to the intersection of Washington Avenue, then running south along the centerline of Washington Avenue to the intersection of West Houston Street. It continues east along the centerline of West Houston Street, then at the intersection of Avenue of the Americas, continues east along the centerline of East Houston Street to the east bank of the East River.

If you have an interest in a passive activity, the modifications required under Tax Law §§ 612(b)(8) and (c)(16) for federal depreciation and NYS depreciation must be made for the full amounts allowable as a federal depreciation deduction (100%), even though the activity may be subject to federal loss deduction limitations. It is only under IRC § 469 (*Passive Activity Losses and Credits Limited*) that there is a limitation on passive loss deductions.

In the case of a partnership using IRC § 168 to determine depreciation, the individual partners should make the adjustments to income on their personal income tax returns. The adjustments for partners are their distributive share of NYS depreciation and federal depreciation, determined by the partnership as of the end of the partnership year ending within the partner's tax year. Form IT-398 should be completed only by the partnership, and not by each individual partner. This treatment is the same for a beneficiary of an estate or trust that is on a fiscal-year basis.

If you are a shareholder of an electing NYS S corporation, the S corporation should provide your proportionate share of the S corporation's depreciation deduction.

If you are a nonresident or part-year resident, you must complete Form IT-398 as if you were a NYS resident for the entire year.

If you are married and file a joint federal return but are required to file separate NYS returns, complete only one Form IT-398 showing the amounts from your joint federal return. Submit a schedule with each return showing each spouse's separate amounts, as if separate federal returns were filed, and explain any differences.

Special rules for certain residential properties owned by institutional real estate investors

NYS does **not** allow a depreciation deduction on *covered properties* owned by an institutional real estate investor as described in Tax Law § 208.9(c-4)(2) on which depreciation was required to be added back to federal adjusted gross income using modification A-223 on Form IT-225, *New York State Modifications*. For more information, see Form IT-225-I, *Instructions for Form IT-225, New York State Modifications*.

Covered property means a residential property located in NYS that consists of no more than two dwelling units.

Do **not** use Form IT-398 to report depreciation amounts on any *covered properties*.

Specific instructions

See the instructions for your tax return for the *Privacy notification* or if you need help contacting the Tax Department.

Enter your name and identifying number (your Social Security number or employer identification number) in the spaces provided on the front of this form. Mark an **X** in the box that indicates which NYS income tax return you are filing and submit this form with that return.

Part 1 – Depreciation

Depreciation is the annual deduction allowed to recover the cost or other basis of business or investment property having a useful life substantially beyond the tax year. However, land is never depreciable. Depreciation starts when you first use the property in your business or for the production of income. It ends when you take the property out of service, deduct all your depreciable cost or other basis, or no longer use the property in your business or for the production of income. (See Part 2 for the deduction to be taken in the year you dispose of the property.)

Column C – Enter the depreciable basis of the assets you place in service in the same year. **Depreciable basis** is the cost or other basis reduced by the part of the basis you elected to amortize or expense under IRC § 179, and any federal investment credit subtracted when computing the federal unadjusted basis of the asset.

Column D – The applicable convention determines the portion of the tax year for which the depreciation is allowable during a year property is either disposed of or placed in service. Enter in column D the convention you used from federal Form 4562, column E.

Column E – Indicate the depreciation method selected for the computation of the NYS allowable depreciation deduction. Any consistent depreciation method that would have been allowed under IRC § 167, as that section would have applied to the property if it had been acquired on September 10, 2001, without regard to § 168(k), is acceptable.

Column F – Enter your NYS depreciation deduction in column F, based on the method you elected in column E.

Column G – Enter the depreciation deduction you took on your federal return.

Part 2 – Year-of-disposition adjustment

If you dispose of IRC § 168(k) property [except for resurgence zone property and New York liberty zone property described in IRC § 1400L(b)(2)] that you placed in service inside or outside NYS after May 31, 2003, you **must** adjust your NYS income by the difference between the total NYS depreciation deduction and the total federal depreciation deduction claimed on that property.

Note: If property on which the investment credit, retail enterprise credit, or research and development credit was taken on Form IT-212, *Investment Credit*, is disposed of or removed from qualified use before its useful life or specified holding period ends, the difference between the credit taken and the credit allowed for actual use must be added to your income tax in the year of disposition. See Form IT-212 and its instructions for more information and to calculate the amount.

Column C – Enter the method used to dispose of the property. **Disposition** includes, but is not limited to, sale, exchange, transfer, and obsolescence.

Column D – Enter the total NYS depreciation deduction you claimed on the property you disposed of.

Column E – Enter the total federal depreciation deduction you claimed on your federal return for the disposition of your property.

398002250094

