Modifications for Federal Accelerated Cost Recovery System (ACRS) Deduction and Safe Harbor Leases
1985 Legislation

Chapter 43 of the Laws of 1985 amended various sections of the New York State Tax Law and the Administrative Code of the City of New York relating to the modifications for the federal accelerated cost recovery system (ACRS) deduction and safe harbor leases. Chapter 43 also made conforming amendments to the New York State and City of New York minimum income taxes.

Modifications for Accelerated Cost Recovery System (ACRS) Deduction

Prior to the enactment of Chapter 43, New York State did not conform to the federal accelerated cost recovery system (ACRS). Section 612(b)(25) required the add-back of the ACRS deduction allowable under Section 168 of the Internal Revenue Code. Section 612(c)(26) permitted a corresponding subtraction for the amount that would have been allowable as a depreciation deduction pursuant to Section 167 of the Internal Revenue Code. However, the subtraction modification could not be taken after the property was taken out of service or fully depreciated for federal purposes, even if not fully depreciated for New York State.

Section 612(b)(25), as amended, requires the add-back of the ACRS deduction under Section 168 of the Internal Revenue Code for taxable years beginning after December 31, 1981, except for recovery property placed in service in New York State in taxable years beginning after December 31, 1984 and for recovery property subject to the provisions of Section 280F of the Internal Revenue Code (such as luxury automobiles) for taxable years ending after June 18, 1984.

Therefore, New York will accept the federal ACRS deduction for recovery property placed in service in New York State in taxable years beginning after December 31, 1984; and for recovery property subject to the provisions of Section 280F of the Internal Revenue Code placed in service both inside and outside New York State for taxable years ending after June 18, 1984. The modification will still be required for recovery property not placed in service in New York State and recovery property acquired during taxable years beginning in 1981, 1982, 1983 and 1984 (regardless of whether or not the property was placed in service in New York State).

Section 612(c)(26), as amended, makes permanent the subtraction modification, for the depreciation deduction that would have been allowed under Section 167 of the Internal Revenue Code, for all recovery property placed in service both inside and outside New York State in taxable years beginning in 1981, 1982, 1983 and 1984; and for property placed in service outside New York State in taxable years beginning after December 31, 1984. However, this modification does not apply to recovery property subject to the provisions of Section 280F of the Internal Revenue Code for taxable years ending after June 18, 1984.

In addition, the law bas been amended to permit the subtraction modification for New York depreciation to be made until the property is fully depreciated. This provision is retroactive to taxable years beginning on or after January 1, 1984. Accordingly, a taxpayer who under prior law was not permitted to make a subtraction modification because the property was taken out of service or fully depreciated for federal purposes, even though not fully depreciated for New York State purposes, may file an amended return and claim the deduction.

The modifications under Sections 612(b)(27) and 612(c)(28) of the New York State Tax Law are still applicable in the year of disposition of recovery property for which the ACRS deduction was not allowed for New York State.

Modifications for Safe Harbor Leases

The addition modifications under Sections 612(b)(23) and (24) and the subtraction modifications under Sections 612(c)(2A) and (25) of the New York State Tax Law provide for the decoupling from the federal safe harbor lease provisions (Internal Revenue Code Section 168(f)(8)) as it was in effect for agreements entered into prior to January 1, 1984, except for qualified mass transit vehicles. Under prior law, the modifications applied to taxable years beginning in 1982, 1983 and 1984. Chapter 43 of the Laws of 1985 has amended these sections to make them permanent for all taxable years beginning after December 31, 1981.

Items of Tax Preference for Accelerated Cost Recovery System Deduction

Section 622(b)(6) of the New York State Tax Law, as amended, provides that for recovery property placed in service in New York State in taxable years beginning after December 31, 1984 and for recovery property subject to the provisions of Section 280F of the Internal Revenue Code for taxable years ending after June 18,]984, the federal item of tax preference resulting from the accelerated cost recovery system deduction is a New York State item of tax preference.

The federal item of tax preference, attributable to recovery property placed in service after December 31, 1981 but before January 1, 1985 and recovery property placed in service outside New York State in taxable years beginning after December 31, I984, continues to be excluded from New York items of tax preference.

City of New York and City of Yonkers

Title T of the Administrative Code of the City of New York has been correspondingly amended to conform with the amendments made above to Article 22 of the Tax Law.

These amendments to the New York State Tax Law and the Administrative Code of the City of New York are automatically applied for purposes of the City of Yonkers resident income tax surcharge authorized by Article 30-A of the Tax Law.

Cross references:

Modifications for Federal Accelerated Cost Recovery System
1982 Legislation   TSB-M-83-(2)-I

Modifications for the Federal Accelerated Cost Recovery System
1983 Legislation   TSB-M-83-(10)-I (Rev)

Minimum Income Tax - Item of Tax Preference for Accelerated Cost Recovery
Deduction   TSB-M-83-(11)-I

Safe Harbor Leases - 1982 Legislation   TSB-M-83-(3)-I
Safe Harbor Leases and Finance Leases - 1983
Legislation   TSB-M-83-(12)-I