New York State Department of Taxation and Finance

Instructions for Form IT-211
Special Depreciation Schedule

IT-211-I
(8/08)

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

Caution: No deduction can be claimed for research and development expenditures incurred after December 31, 1986. Any qualified expenditures incurred before January 1, 1987, can be carried over to subsequent years. However, no carryover will be allowed after 1993.

General instructions

In lieu of the deduction for depreciation 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. Special depreciation is defined below.

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, the taxpayer may **not** claim the deduction for special depreciation.

The investment credit is claimed on Form IT-212, *Investment Credit,* which may be obtained from our Web site, fax-on-demand system, or by phone. Use Form IT-212 to claim a manufacturing and production, retail enterprise, waste treatment, pollution control, or research and development investment credit.

An election made by an individual, partnership, estate, or trust is binding for all succeeding taxable years unless the Commissioner of Taxation and Finance 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* below and on page 2). 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 in figuring New York adjusted gross 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.

Qualifying property is tangible property that:

— is depreciable pursuant to section 167 of the Internal Revenue Code (IRC); **and**

— has situs in New York; **and**

— is used in the taxpayer's trade or business and:

- 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 that is properly attributable to such construction, reconstruction or erection after December 31, 1963); **or**
- if purchased by the taxpayer, was acquired in a transaction (which constitutes a purchase as defined in section 179(d) of the IRC) consummated after December 31, 1963, provided the original use of the property commenced with the taxpayer, in New York State, after December 31, 1963.

A trade or business is any activity producing income that would have been subject to the unincorporated business tax under Article 23 of the Tax Law, or that 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 property is:

— property whose original use began in New York State by the taxpayer after December 31, 1963; **or**

— property acquired, constructed, reconstructed, or erected after December 31, 1963, by a contract that was, on or before December 31, 1967, and at all times thereafter, binding on the taxpayer; **or**

— property whose 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 IRC placed on or before December 31, 1967; **or**

— property acquired, constructed, reconstructed, or erected after December 31, 1967, under a plan of the taxpayer that 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 IRC.

Classification of property *(continued)*

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 property is 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

— 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.

— For Class B property used in a business carried on both in and out of New York 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 New York State for the taxable year for which the deduction is claimed.

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 qualifying tangible personal property rented or leased 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 section 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 1: *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 that would occur, in this case, at the end of 1970. 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, as 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.

Treatment of Class B property 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 in and out of 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 2: *A taxpayer doing business both in and out of 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 —	*Adjustment for federal amount*	*$6,000*
	Accumulated NYS depreciation at twice the federal rate (12-31-68)	*$12,000*
1969 —	*Tentative adjustment for federal amount*	*$7,500*
	Tentative New York elective depreciation	*$15,000*
	Tentative accumulated New York 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 New York accumulated depreciation equals federal cost basis.

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If the property is held through 1974, the depreciation for 1974 will be limited to $6,000 (that is, 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.

Adjustment of basis upon sale or disposition

In any taxable year when property is sold or otherwise disposed of, the basis of such property must be adjusted to reflect any deduction allowed for **either** special depreciation or research and development expenditures.

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

The New York 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 New York State basis of qualifying property used for research and development purposes for which a full deduction was allowed is zero.

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 New York State personal income tax return. No carryover of research and development expenditures will be allowed for tax years after December 31, 1993.

Specific instructions

In the spaces provided, print or type your name and social security number or employer identification number as they appear on the return with which Form IT-211 is being filed. Enter the tax year information and mark an ***X*** in the box to indicate the return with which Form IT-211 is being filed.

Parts 1 and 2

These parts are to be completed by all electing individuals, partnerships, estates, and trusts. Property reported in Parts 1 and 2 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. Attach additional Forms IT-211, Parts 1 and 2 as needed. If Form IT-211 includes items of Class A and Class B qualifying property, prepare a separate Form IT-211 for each class and combine the totals of each class for use in Part 3 of this form. If Class B qualifying property is used in a business carried on both in and out of New York State, report the New York business allocation percentage for the first year for which an elective deduction is made as part of the description of each item of property reported in Parts 1 and 2.

Part 3 — Summary

Enter on lines 5, 6, and 8 the applicable amounts as indicated. Transfer the amounts computed on lines 7 and 8 to the appropriate tax return lines as directed on Form IT-211.

If an amount computed on line 7 or 8 is attributable to items not reflected in the federal distributable net income of the estate or trust and is reported on a fiduciary return (Form IT-205 or, if allocation is required, Form IT-205-A), enter the amount on the fiduciary return as follows:

- For Form IT-205, enter the amount on line 2.
- For Form IT-205-A, enter the amount on line 7.

Treat any amount computed on line 7 as an addition and any amount computed on line 8 as a subtraction. Transfer the amount(s) to Form IT-205 or Form IT-205-A.