

GENERAL INFORMATION

The Job Creation and Worker Assistance Act of 2002, P.L. 107-147, (the "Act") allows taxpayers an additional 30 percent depreciation deduction in the first year "qualified property" is placed in service. The Act allows a similar additional 30 percent first-year depreciation deduction for "qualified New York Liberty Zone property" and allows "qualified New York Liberty Zone leasehold improvements" to be depreciated over a five-year period using a straight-line method. The Act also allows an additional first-year expense deduction of up to \$35,000 for "qualified New York Liberty Zone property" under IRC §179 in addition to the otherwise allowable deduction. The Jobs and Growth Tax Relief Reconciliation Act of 2003, P.L. 108-27, (the "2003 Act") increased the first year federal depreciation deduction for certain qualified property to 50%.

The New York Liberty Zone generally encompasses an area of the borough of Manhattan below Canal Street. "Qualified property" (as defined in IRC §168(k)(2)) generally includes certain personal property acquired after September 10, 2001 and before September 11, 2004 and placed in service after September 10, 2001 and before January 1, 2005 or 2006 in certain circumstances. The 2003 Act modified the definition of "qualified property" to provide that to qualify for the 50% deduction, the property must be acquired after May 5, 2003 and before January 1, 2006. "Qualified New York Liberty Zone property" (as defined in IRC §1400L(b)(2)) generally includes the same types of personal property if used substantially in the New York Liberty Zone in connection with the active conduct of a trade or business in the New York Liberty Zone where the original use began with the taxpayer in the Liberty Zone after September 10, 2001. It also includes certain real property acquired to replace property damaged or destroyed in the attacks on the World Trade Center on September 11, 2001. For New York City tax purposes, property that qualifies as both "qualified property" and "qualified New York Liberty Zone property" will be eligible for enhanced depreciation and IRC §179 benefits as "qualified New York Liberty Zone property."

"Qualified Resurgence Zone property" is "qualified property" used substantially in the Resurgence Zone in connection with the active conduct of a trade or business where the original use began with the taxpayer in the Resurgence Zone after September 10, 2001. The Resurgence Zone (defined in sections 11-507(22) and 11-602.8(m) of the Administrative Code) generally encompasses the area in Manhattan between Canal Street and Houston Street.

The New York City Administrative Code, as amended pursuant to the authority granted under Part G of Chapter 93 of the Laws of 2002, limits the depreciation deduction for "qualified property," other than "qualified Resurgence Zone property," to the deduction that would have been allowed for such property under IRC §167 had the property been acquired by the taxpayer on September 10, 2001, and therefore, not eligible for the enhanced deductions allowed by the Act. The Administrative Code also requires appropriate adjustments to the amount of any gain or loss

included in entire net income or unincorporated business entire net income upon the disposition of any property for which the federal and New York city depreciation deductions differ. NOTE: Deductions for "qualified Resurgence Zone property," "qualified New York Liberty Zone property" and "qualified New York Liberty Zone leasehold improvements" are not affected by the decoupling provisions. The additional first-year expense deductions under IRC §179 also are not affected.

WHO MUST USE THIS FORM

A corporation or unincorporated business that files a

- NYC-3L or NYC-4S
General Business Corporations
- NYC-202 or NYC-204
Unincorporated Businesses
- NYC-1
Banking Corporations

must use Form NYC-399Z if it claims for federal purposes a depreciation deduction pursuant to the Act for "qualified property", other than "qualified Resurgence Zone property," "qualified New York Liberty Zone property," and "qualified New York Liberty Zone Leasehold improvements."

SPECIFIC INSTRUCTIONS

SCHEDULE A

The purpose of this schedule is to compute the allowable New York City depreciation deduction. This form has been designed to be used with the federal depreciation schedule, Form 4562. (Rev. March 2002 or later) A copy of the federal form must accompany this Form NYC-399Z.

Column A

Enter a brief description of each item of "qualified property," other than "qualified Resurgence Zone property," "qualified New York Liberty Zone property" and "Qualified New York Liberty Zone Leasehold improvements," included in part II or III of federal Form 4562.

Column B

For each item of property listed in column A, indicate the class of property used in computation of the federal deduction. Use "UPM" for property which is depreciated under the unit of production method provided in IRC §168(f)(1).

Column D

The cost or other basis entered in this column must be the same amount used for federal purposes prior to any reduction for the special depreciation allowance for qualified property.

Column G

Indicate the depreciation method selected for the computation of the New York City allowable depreciation deduction. Any method used to compute depreciation that would have been allowed under IRC §167, had the property been acquired on September 10, 2001, will be acceptable. This includes such methods as straight-line depreciation, declining balance depreciation, sum-of-the-years-digits method or any other consistent method.

Column I

Enter depreciation computed by the method indicated in column G computed as IRC §167 would have applied had the property been acquired on September 10, 2001. Total of this column will be the amount allowable as a deduction for New York City.

LINE 1

Enter total of columns F and I on lines 4 and 5 of Schedule C, as indicated.

If you have disposed of "qualified property" other than "qualified Resurgence Zone property," "qualified New York Liberty Zone property" or "qualified New York Liberty Zone leasehold improvements," in any year after the year of acquisition, you must complete Schedule B.

SCHEDULE B

Column A

Enter each item of property separately. Attach a rider if additional room is needed.

Column D

Enter for each item of property the total amount of federal IRC §167 deductions used in the computation of prior years' federal taxable income.

Column E

Enter for each item of property the total amount of New York City IRC §167 deductions used in the computation of prior years' New York City entire net income.

Column F

For any item of property, if column D exceeds column E, subtract column E from column D and enter the excess in this column.

Column G

For any item of property, if column E exceeds column D, subtract column D from column E and enter the excess in this column.

LINE 2

Total column F and enter amount on line 6, Schedule C.

LINE 3

Total column G and enter amount on line 7, Schedule C.

SCHEDULE C

LINE 8

Enter the amount on line 8A, as an addition on the applicable New York City tax return. Use the following lines. Attach an explanation.

NYC-3L - Schedule B, line 6d
 NYC-4S - Schedule B, line 4
 NYC-202 - Schedule B, line 10d
 NYC-204 - Schedule B, line 14d
 NYC-1 - Schedule B, line 8

Enter the amount on line 8b as a deduction on the applicable New York City tax return. Use the following lines. Attach an explanation.

NYC-3L - Schedule B, line 16
 NYC-4S - Schedule B, line 6b
 NYC-202 - Schedule B, line 16
 NYC-204 - Schedule B, line 20
 NYC-1 - Schedule B, line 18