

#### **141.0101 Depreciation methods and transitional rules.**

- (1) For property placed in service prior to January 1, 1990, in lieu of the depreciation and expense deductions allowed under Internal Revenue Code Sections 168 and 179, a deduction for a reasonable allowance for depreciation, exhaustion, wear and tear, and obsolescence of property used in a trade or business shall be allowed and computed as set out in subsections (2) to (10) of this section. For property placed in service after December 31, 1989, the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code shall be allowed.
- (2) Effective August 1, 1985, "reasonable allowance" as used in subsection (1) of this section shall mean depreciation computed in accordance with Section 167 of the Internal Revenue Code and related regulations in effect on December 31, 1980, for all property placed in service on or after January 1, 1981, except as provided in subsections (5) to (7) of this section.
- (3) Depreciation of property placed in service prior to January 1, 1981, shall be computed under Section 167 of the Internal Revenue Code, and the method elected thereunder at the time the property was first placed in service or as changed with the approval of the Commissioner of Internal Revenue Service or as required by changes in federal regulations.
- (4) Taxpayers other than corporations shall be allowed to deduct as depreciation on recovery property placed in service before August 1, 1985, an amount calculated under Section 168 of the Internal Revenue Code subject to the provisions of subsections (5) and (7) of this section. Corporations with a taxable year beginning on or after July 1, 1984, and before August 1, 1985, shall calculate a deduction for depreciation on recovery property placed in service prior to August 1, 1985, using either of the following alternative methods:
  - (a) Dividing the total of the deductions allowed under Internal Revenue Code Section 168 by one and four tenths (1.4); and
  - (b) Calculating the deduction that would be allowed or allowable under the provisions of Section 167 of the Internal Revenue Code.
- (5) Recovery property placed in service on or after January 1, 1981, and before August 1, 1985, and subject to transition under subsection (7) of this section, shall be subject to depreciation under Section 167 of the Internal Revenue Code, restricted to the straight line method therein provided over the remaining useful life of such assets.
- (6) Depreciation of property placed in service on or after August 1, 1985, shall be computed under Section 167 of the Internal Revenue Code.
- (7) Transition from Section 168 of the Internal Revenue Code, Accelerated Cost Recovery System (ACRS) depreciation, to the depreciation allowed or allowable under this section shall be reported in the first taxable year beginning on or after August 1, 1985. To implement the transition, the following adjustments shall be made:
  - (a) Taxpayers other than corporations shall use the adjusted Kentucky basis for property placed in service on or after January 1, 1981. "Adjusted Kentucky

basis" means the basis used for determining depreciation under Section 168 of the Internal Revenue Code less the allowed or allowable depreciation and adjustment for election to expense an asset (Section 179 of the Internal Revenue Code);

- (b) Corporations shall adjust the federal unadjusted basis by increasing such basis by the ACRS depreciation not allowed as a deduction in determining Kentucky net income for tax years beginning after June 30, 1984, less allowed or allowable ACRS depreciation for federal income tax purposes. Corporations will not be permitted to adjust the basis by the ACRS depreciation not allowed for Kentucky income tax purposes in tax years beginning on or before June 30, 1984.
- (8) A taxpayer may elect to treat the cost of property placed in service on or before July 31, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in effect on December 31, 1981, except that the aggregate cost which may be expensed for corporations shall not exceed five thousand dollars (\$5,000). A taxpayer may elect to treat the cost of property placed in service on or after August 1, 1985, as an expense as provided in Section 179 of the Internal Revenue Code in effect on December 31, 1980. Computations, limitations, definitions, exceptions, and other provisions of Section 179 of the Internal Revenue Code and related regulations shall be construed to govern the computation of the allowable deduction.
- (9) Upon the sale, exchange, or disposition of any depreciable property placed in service on or after January 1, 1981, capital gains or losses and the amount of ordinary income determined under the provisions of the Internal Revenue Code shall be computed for Kentucky income tax purposes as follows:
- (a) Compute the Kentucky unadjusted basis which is the cost of the asset reduced by any basis adjustment made by the taxpayer under Section 48(q)(1) of the Internal Revenue Code and any expense allowed and utilized under Section 179 of the Internal Revenue Code (First Year Expense) in determining Kentucky net income in prior years, and
  - (b) Compute the adjusted basis by subtracting the depreciation allowed or allowable for Kentucky income tax purposes from the unadjusted basis, except corporations will not be permitted to adjust the basis of assets by the ACRS depreciation not allowed for Kentucky income tax purposes in the tax years beginning on or before June 30, 1984, and
  - (c) Compute the gain or loss by subtracting the adjusted basis from the value received from the disposition of the depreciable property, and
  - (d) Compute the recapture of depreciation required under Sections 1245 through 1256 of the Internal Revenue Code and related regulations, and
  - (e) Unless otherwise provided in this subsection the provisions of the Internal Revenue Code and related regulations governing the determination of capital gains or losses shall apply for Kentucky income tax purposes.
- (10) Unless otherwise provided by this chapter, the basis of property placed in service prior to January 1, 1990, for purposes of Kentucky income tax shall be the basis,

adjusted or unadjusted, required to be used under Section 167 of the Internal Revenue Code in effect on December 31, 1980.

- (11) The provisions of subsections (1) to (10) of this section shall apply to taxable years beginning before January 1, 1994, and the provisions of subsections (12) to (15) shall apply to taxable years beginning after December 31, 1993.
- (12) As used in this subsection to subsection (14) of this section:
- (a) "Transition property" means any property placed in service before the first day of the first taxable year beginning after December 31, 1993, and owned by the taxpayer on the first day of the first taxable year beginning after December 31, 1993.
  - (b) "Adjusted Kentucky basis" means the amount computed in accordance with the provisions of paragraph (b) of subsection (9) of this section for transition property.
  - (c) "Adjusted federal basis" means the original cost, or, in the case of Section 338 property, the adjusted grossed-up basis of transition property less:
    - 1. Any basis adjustments required by the Internal Revenue Code for credits; and
    - 2. The total accumulated depreciation and election to expense deductions allowed or allowable for federal income tax purposes.
  - (d) "Section 338 property" means property to which an adjusted grossed-up basis has been allocated pursuant to a valid election made by a purchasing corporation under the provisions of Section 338 of the Internal Revenue Code.
  - (e) "Transition amount" means the net difference between the adjusted Kentucky basis and the adjusted federal basis of all transition property determined as of the first day of the first taxable year beginning after December 31, 1993.
- (13) For taxable years beginning after December 31, 1993, the amounts of depreciation and election to expense deductions, allowed or allowable, the basis of assets, adjusted or unadjusted, and the gain or loss from the sale or other disposition of assets shall be the same for Kentucky income tax purposes as determined under Chapter 1 of the Internal Revenue Code.
- (14) For taxable years beginning after December 31, 1993, the transition amount computed in accordance with the provisions of paragraph (e) of subsection (12) of this section shall be reported by the taxpayer as follows:
- (a) In the first taxable year beginning after December 31, 1993, and the eleven (11) succeeding taxable years, the taxpayer shall include in gross income one-twelfth (1/12) of the transition amount if:
    - 1. The adjusted federal basis of transition property exceeds the adjusted Kentucky basis of transition property;
    - 2. The transition amount exceeds five million dollars (\$5,000,000);
    - 3. The transition amount includes property for which an election was made under Section 338 of the Internal Revenue Code; and

4. The taxpayer elects the provisions of this paragraph with the filing of an amended income tax return for the first taxable year beginning after December 31, 1993.
- (b) In the first taxable year beginning after December 31, 1993 and the three (3) succeeding taxable years, if the transition amount exceeds one hundred thousand dollars (\$100,000), or if the transition amount does not exceed one hundred thousand dollars (\$100,000) and the taxpayer elects the provision of this paragraph with the filing of the income tax return for the first taxable year beginning after December 31, 1993, the taxpayer shall:
1. Deduct from gross income twenty-five percent (25%) of the transition amount if the adjusted Kentucky basis of transition property exceeds the adjusted federal basis of transition property; or
  2. Add to gross income twenty-five percent (25%) of the transition amount if the adjusted federal basis of transition property exceeds the adjusted Kentucky basis of transition property.
- (c) In the first taxable year beginning after December 31, 1993, if the transition amount does not exceed one hundred thousand dollars (\$100,000) and the taxpayer does not elect the provisions of paragraph (b) of this subsection, the taxpayer shall:
1. Deduct from gross income the total transition amount if the adjusted Kentucky basis of transition property exceeds the adjusted federal basis of transition property; or
  2. Add to gross income the total transition amount if the adjusted federal basis of transition property exceeds the adjusted Kentucky basis of transition property.
- (15) Notwithstanding any other provision of this section to the contrary, any qualified farming operation, as defined in KRS 141.410, shall be allowed to compute the depreciation deduction for new buildings and equipment purchased to enable participation in a networking project, as defined in KRS 141.410, on an accelerated basis at two (2) times the rate that would otherwise be permitted under the provisions of this section. The accumulated depreciation allowed under this subsection shall not exceed the taxpayer's basis in such property.

**Effective:** July 15, 1996

**History:** Amended 1996 Ky. Acts ch. 232, sec. 1, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 45, sec. 2, effective July 15, 1994; ch. 56, sec. 1, effective July 15, 1994; and ch. 390, sec. 15, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 476, Pt. VII D, sec. 631, effective April 11, 1990. -- Created 1985 (1st Extra. Sess.) Ky. Acts ch. 6, Pt. V, sec. 16, effective July 29, 1985.

**Legislative Research Commission Note.** 1985 (1st Extra. Sess.) Ky. Acts ch. 6, Pt. V, sec. 17, directs that the provisions of this section shall apply to taxable years ending after 7/31/85, unless otherwise provided.