

2023 Kansas Statutes

79-32,143a. Expense deduction for certain depreciable property; calculation of amount; sale of property, procedure; limitation on other credits. (a) For taxable years beginning after December 31, 2020, a taxpayer may elect to take an expense deduction from Kansas net income before expensing or recapture allocated or apportioned to this state for the cost of the following property placed in service in this state during the taxable year: (1) Tangible property eligible for depreciation under the modified accelerated cost recovery system in section 168 of the internal revenue code, as amended, but not including residential rental property, nonresidential real property, any railroad grading or tunnel bore or any other property with an applicable recovery period in excess of 25 years as defined under section 168(c) or (g) of the internal revenue code, as amended; and (2) computer software as defined in section 197(e)(3)(B) of the internal revenue code, as amended, and as described in section 197(e)(3)(A)(i) of the internal revenue code, as amended, to which section 167 of the internal revenue code, as amended, applies. If such election is made, the amount of expense deduction for such cost shall equal the difference between the depreciable cost of such property for federal income tax purposes and the sum of the amount of bonus depreciation being claimed for such property pursuant to section 168(k) and the amount of expensing deduction being claimed for such property pursuant to section 179 of the internal revenue code, as amended, for federal income tax purposes in such tax year, multiplied by the applicable factor, determined by using, the table provided in subsection (f), based on the method of depreciation selected pursuant to section 168(b)(1), (2), or (3) or (g) of the internal revenue code, as amended, and the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended. This election shall be made by the due date of the original return, including any extensions, and may be made only for the taxable year in which the property is placed in service, and once made, shall be irrevocable.

(b) If the amount of expense deduction calculated pursuant to subsection (a) exceeds the taxpayer's Kansas net income before expensing or recapture allocated or apportioned to this state, such excess amount shall be treated as a Kansas net operating loss as provided in K.S.A. 79-32,143, and amendments thereto.

(c) If the property for which an expense deduction is taken pursuant to subsection (a) is subsequently sold during the applicable recovery period for such property as defined under section 168(c) of the internal revenue code, as amended, and in a manner that would cause recapture of any previously taken expense or depreciation deductions for federal income tax purposes, or if the situs of such property is otherwise changed such that the property is relocated outside the state of Kansas during such applicable recovery period, then the expense deduction determined pursuant to subsection (a) shall be subject to recapture and treated as Kansas taxable income allocated to this state. The amount of recapture shall be the Kansas expense deduction determined pursuant to subsection (a) multiplied by a fraction, the numerator of which is the number of years remaining in the applicable recovery period for such property as defined under section 168(c) or (g) of the internal revenue code, as amended, after such property is sold or removed from the state including the year of such disposition, and the denominator of which is the total number of years in such applicable recovery period.

(d) The situs of tangible property for purposes of claiming and recapture of the expense deduction shall be the physical location of such property. If such property is mobile, the situs shall be the physical location of the business operations from where such property is used or based. The situs of computer software shall be apportioned to Kansas based on the fraction, the numerator of which is the number of the taxpayer's users located in Kansas of licenses for such computer software used in the active conduct of the taxpayer's business operations, and the denominator of which is the total number of the taxpayer's users of the licenses for such computer software used in the active conduct of the taxpayer's business operations everywhere.

(e) Any member of a unitary group filing a combined report may elect to take an expense deduction pursuant to subsection (a) for an investment in property made by any member of the combined group, provided that the amount calculated pursuant to

subsection (a) may only be deducted from the Kansas net income before expensing or recapture allocated to or apportioned to this state by such member making the election.

(f) The following table shall be used in determining the expense deduction calculated pursuant to subsection (a):

Factors

Period	IRC§168	IRC§168(b)(1)	IRC§168(b)(2)	IRC§168(b)(3) or (g)	Recover
2.5	*	.077	.092		
3		.075	.091	.106	
3.5	*	.102	.116		
4	*	.114	.129		
5		.116	.135	.150	
6	*	.154	.170		
6.5	*	.163	.179		
7		.151	.173	.190	
7.5	*	.181	.199		
8	*	.191	.208		
8.5	*	.199	.217		
9	*	.208	.226		
9.5	*	.216	.235		
10		.198	.224	.244	
10.5	*	.232	.252		
11	*	.240	.261		
11.5	*	.248	.269		
12	*	.256	.277		
12.5	*	.263	.285		
13	*	.271	.293		
13.5	*	.278	.300		
14	*	.285	.308		
15	*	.299	.323		
16	*	.313	.337		
16.5	*	.319	.344		
17	*	.326	.351		
18	*	.339	.365		
19	*	.351	.378		
20	*	.363	.391		
22	*	.386	.415		
24	*	.408	.438		
25	*	.419	.449		

*Not Applicable

(g) If a taxpayer elects to expense any investment pursuant to subsection (a), such taxpayer shall not be eligible for any tax credit, accelerated depreciation, or deduction for such investment allowed pursuant to K.S.A. 79-32,160a(e), 79-32,182b, 79-32,201, 79-32,204, 79-32,211, 79-32,218, 79-32,221, 79-32,222, 79-32,224, 79-32,227, 79-32,229, 79-32,232, 79-32,234, 79-32,237, 79-32,239, 79-32,246, 79-32,249, 79-32,252, 79-32,255, 79-32,256 and 79-32,258, and amendments thereto.

(h) (1) For tax year 2013, the deduction allowed by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to K.S.A. 79-32,110(c), and amendments thereto, and used only to determine such taxpayer's corporate income tax liability.

(2) For tax years 2014 through 2020, the deduction allowed by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to K.S.A. 79-32,110(c), and amendments thereto, or the privilege tax imposed upon any national banking association, state bank, savings bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and used only to determine such taxpayer's corporate income or privilege tax liability.

(i) For tax year 2021, and all tax years thereafter, the deduction allowed by this section shall be available to all taxpayers subject to the income tax imposed pursuant

to K.S.A. 79-32,110, and amendments thereto, or the privilege tax imposed upon any national banking association, state bank, savings bank, trust company or savings and loan association pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, and used only to determine such taxpayer's income or privilege tax liability.

History: L. 2011, ch. 116, § 2; L. 2012, ch. 135, § 18; L. 2014, ch. 81, § 7; L. 2021, ch. 93, § 13; July 1.