

## 2012 Kansas Statutes

**79-32,143a. Expense deduction for certain depreciable property of corporations; calculation of amount; sale of property, procedure; limitation on other credits.** (a) For taxable years beginning after December 31, 2011, 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 amount of bonus depreciation being claimed for such property pursuant to section 168(k) of the internal revenue code, as amended, for federal income tax purposes in such tax year, but without regard to any expense deduction being claimed for such property under section 179 of the internal revenue code, as amended, 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. If the section 179 expense deduction election has been made for federal income tax purposes for any asset, the applicable factor to be utilized is in the IRC § 168 (b)(1) column of the table provided in subsection (f) for the applicable recovery period of the respective assets.

(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):

Recover Period	Factors			Depreciation	Depreciation	Depreciation	(year)	Method	Method	Method
	IRC§168(b)(1)	IRC§168(b)(2)	IRC§168(b)(3) or (g)							
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

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. 2012 Supp. 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) For tax 2013, and all tax years thereafter, the deduction allowed by this section shall only be available to taxpayers subject to the income tax on corporations imposed pursuant to subsection (c) of K.S.A. 79-32,110, and amendments thereto, and used only to determine such taxpayer's corporate income tax liability.

**History:** L. 2011, ch. 116, § 2; L. 2012, ch. 135, § 18; Jan. 1, 2013.