

§ 1354. Alternative tax election; revocation; termination

(a) In general

A qualifying vessel operator may elect the application of this subchapter.

(b) Time and manner; years for which effective

An election under this subchapter—

(1) shall be made in such form as prescribed by the Secretary, and

(2) shall be effective for the taxable year for which made and all succeeding taxable years until terminated under subsection (d).

Such election may be effective for any taxable year only if made on or before the due date (including extensions) for filing the corporation's return for such taxable year.

(c) Consistent elections by members of controlled groups

An election under subsection (a) by a member of a controlled group shall apply to all qualifying vessel operators that are members of such group.

(d) Termination

(1) By revocation

(A) In general

An election under subsection (a) may be terminated by revocation.

(B) When effective

Except as provided in subparagraph (C)—

(i) a revocation made during the taxable year and on or before the 15th day of the 3d month thereof shall be effective on the 1st day of such taxable year, and

(ii) a revocation made during the taxable year but after such 15th day shall be effective on the 1st day of the following taxable year.

(C) Revocation may specify prospective date

If the revocation specifies a date for revocation which is on or after the day on which the revocation is made, the revocation shall be effective for taxable years beginning on and after the date so specified.

(2) By person ceasing to be qualifying vessel operator

(A) In general

An election under subsection (a) shall be terminated whenever (at any time on or after the 1st day of the 1st taxable year for which the corporation is an electing corporation) such corporation ceases to be a qualifying vessel operator.

(B) When effective

Any termination under this paragraph shall be effective on and after the date of cessation.

(C) Annualization

The Secretary shall prescribe such annualization and other rules as are appropriate in the case of a termination under this paragraph.

(e) Election after termination

If a qualifying vessel operator has made an election under subsection (a) and if such elec-

tion has been terminated under subsection (d), such operator (and any successor operator) shall not be eligible to make an election under subsection (a) for any taxable year before its 5th taxable year which begins after the 1st taxable year for which such termination is effective, unless the Secretary consents to such election.

(Added Pub. L. 108-357, title II, §248(a), Oct. 22, 2004, 118 Stat. 1451; amended Pub. L. 109-135, title IV, §403(g)(4), Dec. 21, 2005, 119 Stat. 2624.)

AMENDMENTS

2005—Subsec. (b). Pub. L. 109-135 inserted “on or” after “only if made” in concluding provisions.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(nn) of Pub. L. 109-135, set out as a note under section 26 of this title.

§ 1355. Definitions and special rules

(a) Definitions

For purposes of this subchapter—

(1) Electing corporation

The term “electing corporation” means any corporation for which an election is in effect under this subchapter.

(2) Electing group; controlled group

(A) Electing group

The term “electing group” means a controlled group of which one or more members is an electing corporation.

(B) Controlled group

The term “controlled group” means any group which would be treated as a single employer under subsection (a) or (b) of section 52 if paragraphs (1) and (2) of section 52(a) did not apply.

(3) Qualifying vessel operator

The term “qualifying vessel operator” means any corporation—

(A) who operates one or more qualifying vessels, and

(B) who meets the shipping activity requirement in subsection (c).

(4) Qualifying vessel

The term “qualifying vessel” means a self-propelled (or a combination self-propelled and non-self-propelled) United States flag vessel of not less than 6,000 deadweight tons used exclusively in the United States foreign trade during the period that the election under this subchapter is in effect.

(5) United States flag vessel

The term “United States flag vessel” means any vessel documented under the laws of the United States.

(6) United States domestic trade

The term “United States domestic trade” means the transportation of goods or passengers between places in the United States.

(7) United States foreign trade

The term “United States foreign trade” means the transportation of goods or pas-