

**§ 1357. Items not subject to regular tax; depreciation; interest****(a) Exclusion from gross income**

Gross income of an electing corporation shall not include its income from qualifying shipping activities.

**(b) Electing group member**

Gross income of a corporation (other than an electing corporation) which is a member of an electing group shall not include its income from qualifying shipping activities conducted by such member.

**(c) Denial of losses, deductions, and credits****(1) General rule**

Subject to paragraph (2), each item of loss, deduction (other than for interest expense), or credit of any taxpayer with respect to any activity the income from which is excluded from gross income under this section shall be disallowed.

**(2) Depreciation****(A) In general**

Notwithstanding paragraph (1), the adjusted basis (for purposes of determining gain) of any qualifying vessel shall be determined as if the deduction for depreciation had been allowed.

**(B) Method****(i) In general**

Except as provided in clause (ii), the straight-line method of depreciation shall apply to qualifying vessels the income from operation of which is excluded from gross income under this section.

**(ii) Exception**

Clause (i) shall not apply to any qualifying vessel which is subject to a charter entered into before the date of the enactment of this subchapter.

**(3) Interest****(A) In general**

Except as provided in subparagraph (B), the interest expense of an electing corporation shall be disallowed in the ratio that the fair market value of such corporation's qualifying vessels bears to the fair market value of such corporation's total assets.

**(B) Electing group**

In the case of a corporation which is a member of an electing group, the interest expense of such corporation shall be disallowed in the ratio that the fair market value of such corporation's qualifying vessels bears to the fair market value of the electing groups total assets.

(Added Pub. L. 108-357, title II, §248(a), Oct. 22, 2004, 118 Stat. 1455.)

## REFERENCES IN TEXT

The date of the enactment of this subchapter, referred to in subsec. (c)(2)(B)(ii), is the date of enactment of Pub. L. 108-357, which was approved Oct. 22, 2004.

**§ 1358. Allocation of credits, income, and deductions****(a) Qualifying shipping activities**

For purposes of this chapter, the qualifying shipping activities of an electing corporation shall be treated as a separate trade or business activity distinct from all other activities conducted by such corporation.

**(b) Exclusion of credits or deductions**

(1) No deduction shall be allowed against the notional shipping income of an electing corporation, and no credit shall be allowed against the tax imposed by section 1352(a)(2).<sup>1</sup>

(2) No deduction shall be allowed for any net operating loss attributable to the qualifying shipping activities of any person to the extent that such loss is carried forward by such person from a taxable year preceding the first taxable year for which such person was an electing corporation.

**(c) Transactions not at arm's length**

Section 482 applies in accordance with this subsection to a transaction or series of transactions—

(1) as between an electing corporation and another person, or

(2) as between an<sup>2</sup> person's qualifying shipping activities and other activities carried on by it.

(Added Pub. L. 108-357, title II, §248(a), Oct. 22, 2004, 118 Stat. 1456.)

**§ 1359. Disposition of qualifying vessels****(a) In general**

If any qualifying vessel operator sells or disposes of any qualifying vessel in an otherwise taxable transaction, at the election of such operator, no gain shall be recognized if any replacement qualifying vessel is acquired during the period specified in subsection (b), except to the extent that the amount realized upon such sale or disposition exceeds the cost of the replacement qualifying vessel.

**(b) Period within which property must be replaced**

The period referred to in subsection (a) shall be the period beginning one year prior to the disposition of the qualifying vessel and ending—

(1) 3 years after the close of the first taxable year in which the gain is realized, or

(2) subject to such terms and conditions as may be specified by the Secretary, on such later date as the Secretary may designate on application by the taxpayer.

Such application shall be made at such time and in such manner as the Secretary may by regulations prescribe.

**(c) Application of section to noncorporate operators**

For purposes of this section, the term "qualifying vessel operator" includes any person who would be a qualifying vessel operator were such person a corporation.

<sup>1</sup> So in original. Probably should be section "1352(2)".

<sup>2</sup> So in original.