

(ii) its intention to resume operation of the vessel in the United States foreign trade or qualified zone domestic trade.

(B) Notice

Notice shall be deemed timely if given not later than the due date (including extensions) for the corporation's tax return for the taxable year in which the temporary cessation begins.

(C) Period disregard in effect

The period of temporary use under subparagraph (A) continues until the earlier of the date of which—

(i) the electing corporation abandons its intention to resume operations of the vessel in the United States foreign trade or qualified zone domestic trade, or

(ii) the electing corporation resumes operation of the vessel in the United States foreign trade or qualified zone domestic trade.

(D) No disregard if domestic trade use exceeds 30 days

Subparagraph (A) shall not apply to any qualifying vessel which is operated in the United States domestic trade (other than qualified zone domestic trade) for more than 30 days during the taxable year.

(3) Allocation of income and deductions to qualifying shipping activities

In the case of a qualifying vessel to which this subsection applies, the Secretary shall prescribe rules for the proper allocation of income, expenses, losses, and deductions between the qualified shipping activities and the other activities of such vessel.

(4) Qualified zone domestic trade

For purposes of this subsection—

(A) In general

The term “qualified zone domestic trade” means the transportation of goods or passengers between places in the qualified zone if such transportation is in the United States domestic trade.

(B) Qualified zone

The term “qualified zone” means the Great Lakes Waterway and the St. Lawrence Seaway.

(h) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 108-357, title II, §248(a), Oct. 22, 2004, 118 Stat. 1452; amended Pub. L. 109-135, title IV, §403(g)(1)(B)-(2), Dec. 21, 2005, 119 Stat. 2624; Pub. L. 109-222, title II, §205(a), May 17, 2006, 120 Stat. 350; Pub. L. 109-432, div. A, title IV, §§413(a), 415(a), Dec. 20, 2006, 120 Stat. 2963.)

AMENDMENTS

2006—Subsec. (a)(4). Pub. L. 109-432, §413(a), substituted “6,000” for “10,000 (6,000, in the case of taxable years beginning after December 31, 2005, and ending before January 1, 2011)”.

Pub. L. 109-222 inserted “(6,000, in the case of taxable years beginning after December 31, 2005, and ending before January 1, 2011)” after “10,000”.

Subsecs. (g), (h). Pub. L. 109-432, §415(a), added subsec. (g) and redesignated former subsec. (g) as (h).

2005—Subsec. (a)(8). Pub. L. 109-135, §403(g)(1)(B), struck out heading and text of par. (8). Text read as follows: “The term ‘charter’ includes an operating agreement.”

Subsec. (b)(1). Pub. L. 109-135, §403(g)(1)(C), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Except as provided in paragraph (2), a person is treated as operating any vessel during any period if such vessel is—

“(A) owned by, or chartered (including a time charter) to, the person, and

“(B) is in use as a qualifying vessel during such period.”

Subsec. (c)(3). Pub. L. 109-135, §403(g)(2), substituted “determined by treating all members of such group as 1 person.” for “determined—

“(A) by treating all members of such group as 1 person, and

“(B) by disregarding vessel charters between members of such group.”

Subsec. (d)(3). Pub. L. 109-135, §403(g)(1)(D), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “the extent of a partner's ownership or charter interest in any vessel owned by or chartered to the partnership shall be determined on the basis of the partner's interest in the partnership.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §413(b), Dec. 20, 2006, 120 Stat. 2963, provided that: “The amendment made by this section [amending this section] shall take effect as if included in section 205 of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222].”

Pub. L. 109-432, div. A, title IV, §415(b), Dec. 20, 2006, 120 Stat. 2965, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Dec. 20, 2006].”

Pub. L. 109-222, title II, §205(b), May 17, 2006, 120 Stat. 350, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 2005.”

EFFECTIVE DATE OF 2005 AMENDMENT

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

§ 1356. Qualifying shipping activities

(a) Qualifying shipping activities

For purposes of this subchapter, the term “qualifying shipping activities” means—

- (1) core qualifying activities,
- (2) qualifying secondary activities, and
- (3) qualifying incidental activities.

(b) Core qualifying activities

For purposes of this subchapter, the term “core qualifying activities” means activities in operating qualifying vessels in United States foreign trade.

(c) Qualifying secondary activities

For purposes of this section—

(1) In general

The term “qualifying secondary activities” means secondary activities but only to the extent that, without regard to this subchapter, the gross income derived by such corporation from such activities does not exceed 20 percent of the gross income derived by the corporation from its core qualifying activities.

(2) Secondary activities

The term “secondary activities” means—

(A) the active management or operation of vessels other than qualifying vessels in the United States foreign trade,

(B) the provision of vessel, barge, container, or cargo-related facilities or services to any person,

(C) other activities of the electing corporation and other members of its electing group that are an integral part of its business of operating qualifying vessels in United States foreign trade, including—

(i) ownership or operation of barges, containers, chassis, and other equipment that are the complement of, or used in connection with, a qualifying vessel in United States foreign trade,

(ii) the inland haulage of cargo shipped, or to be shipped, on qualifying vessels in United States foreign trade, and

(iii) the provision of terminal, maintenance, repair, logistical, or other vessel, barge, container, or cargo-related services that are an integral part of operating qualifying vessels in United States foreign trade, and

(D) such other activities as may be prescribed by the Secretary pursuant to regulations.

Such term shall not include any core qualifying activities.

(d) Qualifying incidental activities

For purposes of this section, the term “qualified incidental activities” means shipping-related activities if—

(1) they are incidental to the corporation’s core qualifying activities,

(2) they are not qualifying secondary activities, and

(3) without regard to this subchapter, the gross income derived by such corporation from such activities does not exceed 0.1 percent of the corporation’s gross income from its core qualifying activities.

(e) Application of gross income tests in case of electing group

In the case of an electing group, subsections (c)(1) and (d)(3) shall be applied as if such group were 1 entity, and the limitations under such subsections shall be allocated among the corporations in such group.

(Added Pub. L. 108-357, title II, §248(a), Oct. 22, 2004, 118 Stat. 1454; amended Pub. L. 109-135, title IV, §403(g)(3), Dec. 21, 2005, 119 Stat. 2624.)

AMENDMENTS

2005—Subsec. (c)(2). Pub. L. 109-135, §403(g)(3)(B), inserted concluding provisions.

Subsec. (c)(3). Pub. L. 109-135, §403(g)(3)(A), struck out heading and text of par. (3). Text read as follows:

“(A) IN GENERAL.—Such term shall not include any core qualifying activities.

“(B) NONELECTING CORPORATIONS.—In the case of a corporation (other than an electing corporation) which is a member of an electing group, any core qualifying activities of the corporation shall be treated as qualifying secondary activities (and not as core qualifying activities).”

EFFECTIVE DATE OF 2005 AMENDMENT

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

§ 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.)