

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).¹

(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 an² 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.

¹ So in original. Probably should be section "1352(2)."

² So in original.

(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.

(d) Time for assessment of deficiency attributable to gain

If a qualifying vessel operator has made the election provided in subsection (a), then—

(1) the statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain is realized, attributable to such gain shall not expire prior to the expiration of 3 years from the date the Secretary is notified by such operator (in such manner as the Secretary may by regulations prescribe) of the replacement qualifying vessel or of an intention not to replace, and

(2) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of section 6212(c) or the provisions of any other law or rule of law which would otherwise prevent such assessment.

(e) Basis of replacement qualifying vessel

In the case of any replacement qualifying vessel purchased by the qualifying vessel operator which resulted in the nonrecognition of any part of the gain realized as the result of a sale or other disposition of a qualifying vessel, the basis shall be the cost of the replacement qualifying vessel decreased in the amount of the gain not so recognized; and if the property purchased consists of more than one piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

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

Subchapter S—Tax Treatment of S Corporations and Their Shareholders

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PART I—IN GENERAL

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§ 1361. S corporation defined

(a) S corporation defined

(1) In general

For purposes of this title, the term "S corporation" means, with respect to any taxable year, a small business corporation for which an election under section 1362(a) is in effect for such year.

(2) C corporation

For purposes of this title, the term "C corporation" means, with respect to any taxable year, a corporation which is not an S corporation for such year.