

(5) in applying the tax imposed by section 531 of such Code (26 U.S.C. 531), amounts held in the fund shall not be taken into account.

(b) **CONDITION.**—This section applies to an amount only if the amount is deposited in the fund under the agreement within the time provided in joint regulations.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1594.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53507	46 App.:1177(d).	June 29, 1936, ch. 858, title VI, §607(d), 49 Stat. 2005; June 23, 1938, ch. 600, §§23-28, 52 Stat. 960; Aug. 4, 1939, ch. 417, §10, 53 Stat. 1185; July 17, 1952, ch. 939, §§17-19, 66 Stat. 764; Pub. L. 85-637, Aug. 14, 1958, 72 Stat. 216; Pub. L. 86-518, §1, June 12, 1960, 74 Stat. 216; Pub. L. 87-45, §6, May 27, 1961, 75 Stat. 91; Pub. L. 87-271, Sept. 21, 1961, 75 Stat. 570; restated Pub. L. 91-469, §21(a), Oct. 21, 1970, 84 Stat. 1028; Pub. L. 99-514, title II, §261(e)(1), (2), Oct. 22, 1986, 100 Stat. 2215.

§ 53508. Separate accounts within a fund

(a) **IN GENERAL.**—A capital construction fund shall have three accounts:

- (1) The capital account.
- (2) The capital gain account.
- (3) The ordinary income account.

(b) **CAPITAL ACCOUNT.**—The capital account shall consist of—

- (1) amounts referred to in section 53505(a)(2) of this title;
- (2) amounts referred to in section 53505(a)(3) of this title, except that portion representing a gain not taken into account because of section 53507(a)(2) of this title;
- (3) the percentage applicable under section 243(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 243(a)(1)) of any dividend received by the fund for which the person maintaining the fund would be allowed (were it not for section 53507(a)(3) of this title) a deduction under section 243 of such Code (26 U.S.C. 243); and

(4) interest income exempt from taxation under section 103 of such Code (26 U.S.C. 103).

(c) **CAPITAL GAIN ACCOUNT.**—The capital gain account shall consist of—

- (1) amounts representing capital gains on assets held for more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus
- (2) amounts representing capital losses on assets held in the fund for more than 6 months.

(d) **ORDINARY INCOME ACCOUNT.**—The ordinary income account shall consist of—

- (1) amounts referred to in section 53505(a)(1) of this title;
- (2)(A) amounts representing capital gains on assets held for not more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus
- (B) amounts representing capital losses on assets held in the fund for not more than 6 months;

(3) interest (except tax-exempt interest referred to in subsection (b)(4)) and other ordinary income (except any dividend referred to in paragraph (5)) received on assets held in the fund;

(4) ordinary income from a transaction described in section 53505(a)(3) of this title; and

(5) that portion of any dividend referred to in subsection (b)(3) not taken into account under subsection (b)(3).

(e) **WHEN LOSSES ALLOWED.**—Except on termination of a fund, capital losses referred to in subsection (c) or (d)(2) shall be allowed only as an offset to gains referred to in subsection (c) or (d)(2), respectively.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1595.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53508	46 App.:1177(e).	June 29, 1936, ch. 858, title VI, §607(e), 49 Stat. 2005; June 23, 1938, ch. 600, §§23-28, 52 Stat. 960; Aug. 4, 1939, ch. 417, §10, 53 Stat. 1185; July 17, 1952, ch. 939, §§17-19, 66 Stat. 764; Pub. L. 85-637, Aug. 14, 1958, 72 Stat. 216; Pub. L. 86-518, §1, June 12, 1960, 74 Stat. 216; Pub. L. 87-45, §6, May 27, 1961, 75 Stat. 91; Pub. L. 87-271, Sept. 21, 1961, 75 Stat. 570; restated Pub. L. 91-469, §21(a), Oct. 21, 1970, 84 Stat. 1028; Pub. L. 99-514, title II, §261(e)(3), (4), Oct. 22, 1986, 100 Stat. 2215.

§ 53509. Qualified withdrawals

(a) **IN GENERAL.**—Subject to subsection (b), a withdrawal from a capital construction fund is a qualified withdrawal if it is made under the terms of the agreement and is for—

- (1) the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel; or
- (2) the payment of the principal on indebtedness incurred in the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel.

(b) **BARGES AND CONTAINERS.**—Except as provided in regulations prescribed by the Secretary, subsection (a) applies to a barge or container only if it is constructed in the United States.

(c) **TREATMENT AS NONQUALIFIED WITHDRAWAL.**—Under joint regulations, if the Secretary determines that a substantial obligation under an agreement is not being fulfilled, the Secretary, after notice and opportunity for a hearing to the person maintaining the fund, may treat any amount in the fund as an amount withdrawn from the fund in a nonqualified withdrawal.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1596.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53509	46 App.:1177(f).	June 29, 1936, ch. 858, title VI, §607(f), 49 Stat. 2005; June 23, 1938, ch. 600, §§23-28, 52 Stat. 960; Aug. 4, 1939, ch. 417, §10, 53 Stat. 1185; July 17, 1952, ch. 939, §§17-19, 66 Stat. 764; Pub. L. 85-637, Aug. 14, 1958, 72 Stat. 216; Pub. L. 86-518, §1, June 12, 1960, 74 Stat. 216; Pub. L. 87-45, §6, May 27, 1961, 75 Stat. 91; Pub. L. 87-271, Sept. 21, 1961, 75 Stat. 570; restated Pub. L. 91-469, §21(a), Oct. 21, 1970, 84 Stat. 1029; Pub. L. 97-31, §12(97)(A), Aug. 6, 1981, 95 Stat. 162.

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53510	46 App.:1177(g).	June 29, 1936, ch. 858, title VI, §607(g); 49 Stat. 2005; June 23, 1938, ch. 600, §§23-28, 52 Stat. 960; Aug. 4, 1939, ch. 417, §10, 53 Stat. 1185; July 17, 1952, ch. 939, §§17-19, 66 Stat. 764; Pub. L. 85-637, Aug. 14, 1958, 72 Stat. 216; Pub. L. 86-518, §1, June 12, 1960, 74 Stat. 216; Pub. L. 87-45, §6, May 27, 1961, 75 Stat. 91; Pub. L. 87-271, Sept. 21, 1961, 75 Stat. 570; restated Pub. L. 91-469, §21(a), Oct. 21, 1970, 84 Stat. 1029; Pub. L. 99-514, title II, §261(e)(5), Oct. 22, 1986, 100 Stat. 2215.

In subsection (c), the words “any amount in the fund” are substituted for “the entire fund or any portion thereof” to eliminate unnecessary words.

§ 53510. Tax treatment of qualified withdrawals and basis of property

(a) ORDER OF WITHDRAWALS.—A qualified withdrawal from a capital construction fund shall be treated as made—

- (1) first from the capital account;
- (2) second from the capital gain account; and
- (3) third from the ordinary income account.

(b) ORDINARY INCOME ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made from the ordinary income account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

(c) CAPITAL GAIN ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made from the capital gain account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

(d) WITHDRAWALS TO PAY PRINCIPAL.—If a portion of a qualified withdrawal to pay the principal on indebtedness is made from the ordinary income account or the capital gain account, an amount equal to the total reduction that would be required by subsections (b) and (c) if the withdrawal were a qualified withdrawal for a purpose described in those subsections shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. The remaining amount of the withdrawal shall be treated as a nonqualified withdrawal.

(e) GAIN ON PROPERTY WITH REDUCED BASIS.—If property, the basis of which was reduced under subsection (b), (c), or (d), is disposed of, any gain realized on the disposition, to the extent it does not exceed the total reduction in the basis of the property under those subsections, shall be treated as an amount referred to in section 53511(c)(1) of this title withdrawn on the date of disposition of the property. Subject to conditions prescribed in joint regulations, this subsection does not apply to a disposition if there is a redeposit, in an amount determined under joint regulations, that restores the fund as far as practicable to the position it was in before the withdrawal.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1596.)

§ 53511. Tax treatment of nonqualified withdrawals

(a) IN GENERAL.—Except as provided in section 53513 of this title, a withdrawal from a fund that is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

(b) ORDER OF WITHDRAWALS.—A nonqualified withdrawal shall be treated as made—

- (1) first from the ordinary income account;
- (2) second from the capital gain account; and
- (3) third from the capital account.

(c) TAX TREATMENT.—For purposes of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

(1) a nonqualified withdrawal from the ordinary income account shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made;

(2) a nonqualified withdrawal from the capital gain account shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during that year from the disposition of an asset held for more than 6 months; and

(3) for the period through the last date prescribed for payment of tax for the taxable year in which the withdrawal is made—

(A) no interest shall be payable under section 6601 of such Code (26 U.S.C. 6601) and no addition to the tax shall be payable under section 6651 of such Code (26 U.S.C. 6651);

(B) interest on the amount of the additional tax attributable to an amount treated as a nonqualified withdrawal from the ordinary income account or the capital gain account shall be paid at the rate determined under subsection (d) from the last date prescribed for payment of the tax for the taxable year for which the amount was deposited in the fund; and

(C) no interest shall be payable on amounts treated as withdrawn on a last-in-first-out basis under section 53512 of this title.

(d) INTEREST RATE.—The rate of interest under subsection (c)(3)(B) for a nonqualified withdrawal made in a taxable year beginning after 1971 shall be determined and published jointly by the Secretary and the Secretary of the Treasury. The rate shall be such that its relationship to 8 percent is comparable, as determined by the Secretaries under joint regulations, to the relationship between—