

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1587.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
53303	46 App.:1161(b) (1st sentence words between 6th and 10th commas).	June 29, 1936, ch. 858, title V, §511(b) (1st sentence words between 6th and 10th commas), as added Oct. 10, 1940, ch. 849, 54 Stat. 1106; June 17, 1943, ch. 130, subdiv. (a), 57 Stat. 157; July 17, 1952, ch. 939, §9, 66 Stat. 762.

§ 53304. Vessel ownership

In this chapter, a vessel is deemed to be constructed or acquired by a taxpayer if constructed or acquired by a corporation when the taxpayer owns at least 95 percent of each class of stock of the corporation.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1588.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
53304	46 App.:1161(l).	June 29, 1936, ch. 858, title V, §511(l), as added Oct. 10, 1940, ch. 849, 54 Stat. 1108.

§ 53305. Eligible fund deposits

A construction reserve fund may include deposits of—

- (1) the proceeds from the sale of a vessel;
- (2) indemnities for the loss of a vessel;
- (3) earnings from the operation of a documented vessel and from services incident to the operation; and
- (4) interest or other amounts accrued on deposits in the fund.

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HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
53305	46 App.:1161(b) (1st sentence words after 16th comma).	June 29, 1936, ch. 858, title V, §511(b) (1st sentence words after 16th comma), as added Oct. 10, 1940, ch. 849, 54 Stat. 1106; June 17, 1943, ch. 130, subdiv. (a), 57 Stat. 157; July 17, 1952, ch. 939, §9, 66 Stat. 762.

In paragraph (3), the words “documented vessel” are substituted for “vessels documented under the laws of the United States” because of the definition of “documented vessel” in chapter 1 of the revised title.

In paragraph (4), the words “interest or other amounts accrued on deposits in the fund” are substituted for “receipts, in the form of interest or otherwise, with respect to amounts previously deposited” for clarity and to eliminate unnecessary words.

§ 53306. Recognition of gain for tax purposes

(a) DEFINITIONS.—In this section, the terms “net proceeds” and “net indemnity” mean the sum of—

- (1) the adjusted basis of the vessel; and
- (2) the amount of gain the taxpayer would recognize without regard to this section.

(b) RECOGNITION OF GAIN.—In computing net income under the income or excess profits tax laws of the United States, a taxpayer does not

recognize a gain on the sale or the actual or constructive total loss of a vessel if the taxpayer—

- (1) deposits an amount equal to the net proceeds of the sale or the net indemnity for the loss in a construction reserve fund within 60 days after receiving the payment of proceeds or indemnity; and
- (2) elects under this section not to recognize the gain.

(c) WHEN ELECTION MUST BE MADE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the taxpayer must make the election referred to in subsection (b) in the taxpayer’s income tax return for the taxable year in which the gain was realized.

(2) RECEIPT AFTER TAXABLE YEAR.—If the vessel is bought or requisitioned by the United States Government, or is lost, and the taxpayer receives payment for the vessel or indemnity for the loss from the Government after the end of the taxable year in which it was bought, requisitioned, or lost, the taxpayer must make the election referred to in subsection (b) within 60 days after receiving the payment or indemnity, on a form prescribed by the Secretary of the Treasury.

(d) EFFECT OF STATUTE OF LIMITATION.—If the taxpayer makes an election under subsection (c)(2), and computation or recomputation under this section is otherwise allowable but is prevented by a statute of limitation on the date the election is made or within 6 months thereafter, the computation or recomputation nevertheless shall be made notwithstanding the statute if the taxpayer files a claim for the computation or recomputation within 6 months after the date of making the election.

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<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
53306	46 App.:1161(c).	June 29, 1936, ch. 858, title V, §511(c), as added Oct. 10, 1940, ch. 849, 54 Stat. 1106; June 17, 1943, ch. 130, subdiv. (b), 57 Stat. 157; Dec. 23, 1944, ch. 714, §1, 58 Stat. 920; July 17, 1952, ch. 939, §10, 66 Stat. 762.

In subsection (c)(2), the words “in any taxable year beginning after December 31, 1939” are omitted as obsolete. The words “prescribed by the Secretary of the Treasury” are substituted for “prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury” for consistency in the revised title and with other titles of the United States Code. See 26 U.S.C. 7805.

§ 53307. Basis for determining gain or loss and for depreciating new vessels

Under the income or excess profits tax laws of the United States, the basis for determining a gain or loss and for depreciation of a new vessel constructed, reconstructed, reconditioned, or acquired by the taxpayer, or for which purchase-money indebtedness is liquidated as provided in section 53310 of this title, with amounts from a construction reserve fund, shall be reduced by that part of the deposits in the fund expended in the construction, reconstruction, reconditioning, acquisition, or liquidation of purchase-