

make an agreement with the Secretary under this chapter to establish a capital construction fund for the vessel.

(b) **ALLOWABLE PURPOSE.**—The purpose of the agreement shall be to provide replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States, for operation in the United States foreign, Great Lakes, noncontiguous domestic, or short sea transportation trade or in the fisheries of the United States.

(Pub. L. 109–304, § 8(c), Oct. 6, 2006, 120 Stat. 1593; Pub. L. 110–140, title XI, § 1122(b), Dec. 19, 2007, 121 Stat. 1762.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
53503(a) .....	46 App.:1177(a) (1st sentence).	June 29, 1936, ch. 858, title VI, § 607(a) (1st sentence), (2d sentence related to purpose), 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. 1026; Pub. L. 97–31, § 12(97)(A), Aug. 6, 1981, 95 Stat. 162.
53503(b) .....	46 App.:1177(a) (2d sentence related to purpose).	

**Editorial Notes**

AMENDMENTS

2007—Subsec. (b). Pub. L. 110–140 substituted “noncontiguous domestic, or short sea transportation trade” for “or noncontiguous domestic trade”.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

**§ 53504. Deposits and withdrawals**

(a) **REQUIRED DEPOSITS.**—An agreement to establish a capital construction fund shall provide for the deposit in the fund of the amounts agreed to be appropriate to provide for qualified withdrawals under section 53509 of this title.

(b) **APPLICABLE REQUIREMENTS.**—Deposits in and withdrawals from the fund are subject to the requirements included in the agreement or prescribed by the Secretary by regulation. However, the Secretary may not require a person to deposit in the fund for a taxable year more than 50 percent of that portion of the person’s taxable income for that year (as determined under section 53505(a)(1) of this title) that is attributable to the operation of an agreement vessel.

(Pub. L. 109–304, § 8(c), Oct. 6, 2006, 120 Stat. 1593.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
53504(a) .....	46 App.:1177(a) (2d sentence related to deposits).	June 29, 1936, ch. 858, title VI, § 607(a) (2d sentence related to deposits), (last sentence), 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. 1026; Pub. L. 97–31, § 12(97)(A), Aug. 6, 1981, 95 Stat. 162.
53504(b) .....	46 App.:1177(a) (last sentence).	

In subsection (a), the words “agreed to be appropriate” are substituted for “agreed upon as necessary or appropriate” to eliminate unnecessary words.

**§ 53505. Ceiling on deposits**

(a) **MAXIMUM DEPOSITS.**—The amount deposited in a capital construction fund for a taxable year may not exceed the sum of—

(1) that portion of the taxable income of the owner or lessee for the taxable year (computed under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) but without regard to the carryback of net operating loss or net capital loss or this chapter) that is attributable to the operation of agreement vessels in the foreign or domestic trade of the United States or in the fisheries of the United States;

(2) the amount allowable as a deduction under section 167 of such Code (26 U.S.C. 167) for the taxable year for agreement vessels;

(3) if the transaction is not taken into account for purposes of paragraph (1), the net proceeds (as defined in joint regulations) from the disposition of an agreement vessel or from insurance or indemnity attributable to an agreement vessel; and

(4) the receipts from the investment or reinvestment of amounts held in the fund.

(b) **REDUCTIONS FOR LESSEES.**—For a lessee, the maximum amount that may be deposited for an agreement vessel under subsection (a)(2) for any period shall be reduced by any amount the owner is required or permitted, under the capital construction fund agreement, to deposit for that period for the vessel under subsection (a)(2).

(Pub. L. 109–304, § 8(c), Oct. 6, 2006, 120 Stat. 1593.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
53505 .....	46 App.:1177(b)(1), (2).	June 29, 1936, ch. 858, title VI, § 607(b)(1), (2), 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. 1027.

In subsection (a)(1), the word “trade” is substituted for “commerce” for consistency in the chapter.

**§ 53506. Investment and fiduciary requirements**

(a) IN GENERAL.—Amounts in a capital construction fund shall be kept in the depository specified in the agreement and shall be subject to trustee and other fiduciary requirements prescribed by the Secretary. Except as provided in subsection (b), amounts in the fund may be invested only in interest-bearing securities approved by the Secretary.

(b) STOCK INVESTMENTS.—

(1) IN GENERAL.—With the approval of the Secretary, an agreed percentage (but not more than 60 percent) of the assets of the fund may be invested in the stock of domestic corporations that—

(A) is fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange; and

(B) would be acquired by a prudent investor seeking a reasonable income and the preservation of capital.

(2) PREFERRED STOCK.—The preferred stock of a corporation is deemed to satisfy the requirements of this subsection, even though it may not be registered and listed because it is nonvoting stock, if the common stock of the corporation satisfies the requirements and the preferred stock otherwise would satisfy the requirements.

(c) MAINTAINING AGREED PERCENTAGE.—If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in a way that tends to restore the fair market value of the stock to not more than the agreed percentage.

(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)
53506 .....	46 App.:1177(c).	June 29, 1936, ch. 858, title VI, § 607(c), 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. 1027; Pub. L. 97-31, § 12(97)(A), Aug. 6, 1981, 95 Stat. 162.

In subsection (b)(1)(B), the words “prudent investor” are substituted for “prudent men of discretion and intelligence in such matters” to eliminate unnecessary words.

**§ 53507. Nontaxation of deposits**

(a) TAX TREATMENT.—Subject to subsection (b), under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

(1) taxable income (determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518)) for the taxable year shall be reduced by the amount deposited for the taxable year out of amounts referred to in section 53505(a)(1) of this title;

(2) a gain from a transaction referred to in section 53505(a)(3) of this title shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from the transaction is deposited in the fund;

(3) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account;

(4) the earnings and profits of a corporation (within the meaning of section 316 of such Code (26 U.S.C. 316)) shall be determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518); and

(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.)