

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.

#### EFFECTIVE DATE

Section applicable to taxable years beginning after Oct. 22, 2004, see section 248(c) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendments note under section 56 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.)

### Editorial Notes

#### 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).”

### Statutory Notes and Related Subsidiaries

#### 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.

#### EFFECTIVE DATE

Section applicable to taxable years beginning after Oct. 22, 2004, see section 248(c) of Pub. L. 108-357, set out as an Effective Date of 2004 Amendments note under section 56 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.