

(iii)(I) of a type, size, and speed that the Secretary determines is suitable for use on the high seas or Great Lakes in carrying out this subtitle, but not less than 2,000 gross tons or less than 12 knots speed unless the Secretary certifies in each case that a vessel of lesser tonnage or speed is desirable for use by the United States Government in case of war or national emergency; or

(II) constructed to replace a vessel bought or requisitioned by the Government; and

(B) a vessel reconstructed or reconditioned for use only on the Great Lakes, including the Saint Lawrence River and Gulf, if the Secretary finds that the reconstruction or reconditioning will promote the objectives of this subtitle.

(b) **ADDITIONAL TAX-RELATED TERMS.**—Other terms used in this chapter have the same meaning as in chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

(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>
53301(a)(1) ..	46 App.:1161(n).	June 29, 1936, ch. 858, title V, §511(n), as added Dec. 23, 1944, ch. 714, §2, 58 Stat. 920; Pub. L. 97–31, §12(92)(A), Aug. 6, 1981, 95 Stat. 161.
53301(a)(2)(A).	46 App.:1161(a).	June 29, 1936, ch. 858, title V, §511(a), as added Oct. 10, 1940, ch. 849, 54 Stat. 1106; Pub. L. 97–31, §12(92)(A), Aug. 6, 1981, 95 Stat. 161.
53301(a)(2)(B).	46 App.:1161(o).	June 29, 1936, ch. 858, title V, §511(o), as added July 17, 1952, ch. 939, §14, 66 Stat. 764; Pub. L. 97–31, §12(92)(A), Aug. 6, 1981, 95 Stat. 161.
53301(b)	46 App.:1161(m).	June 29, 1936, ch. 858, title V, §511(m), as added Oct. 10, 1940, ch. 849, 54 Stat. 1108.

In subsection (a)(2)(A)(i), the words “constructed with a construction-differential subsidy under title V of the Merchant Marine Act, 1936, or constructed with financing or a financing guarantee under chapter 537 or 575 of this title” are substituted for “the construction of which has been financed under subchapters V or VII of this chapter, or the construction of which has been aided by a mortgage insured under subchapter XI of this chapter” because of the reorganization of the material and the omission from the revised title of the provisions relating to the construction-differential subsidy program.

Subsection (a)(2)(B) is substituted for the source provision to state more directly that a vessel described in the source provision is a new vessel for purposes of this chapter.

Editorial Notes

REFERENCES IN TEXT

The Merchant Marine Act, 1936, referred to in subsec. (a)(2)(A)(i), is act June 29, 1936, ch. 858, 49 Stat. 1985. Title V of the Act enacted provisions set out as notes under section 53101 of this title. For complete classification of this Act to the Code, see Short Title of 1936 Amendment note set out under section 101 of this title and Tables.

§ 53302. Authority for construction reserve funds

(a) **GENERAL AUTHORITY.**—An eligible person under section 53303 of this title may establish a construction reserve fund for the construction, reconstruction, reconditioning, or acquisition of a new vessel or for other purposes authorized by this chapter.

(b) **APPLICATION OF CERTAIN LAWS AND REGULATIONS.**—The fund shall be established, maintained, expended, and used as provided by this chapter and regulations prescribed jointly by the Secretary of Transportation and the Secretary of the Treasury.

(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>
53302(a)	46 App.:1161(b) (1st sentence words before 6th comma and between 10th and 16th commas).	June 29, 1936, ch. 858, title V, §511(b) (1st sentence words before 6th comma and between 10th and 16th commas, last sentence), 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; Pub. L. 97–31, §12(92)(A), Aug. 6, 1981, 95 Stat. 161.
53302(b)	46 App.:1161(b) (last sentence).	

In subsection (a), the words “necessary to carrying out the policy set forth in section 1101 of this Appendix” are omitted as unnecessary.

§ 53303. Persons eligible to establish funds

A construction reserve fund may be established by a citizen of the United States that—

- (1) is operating a vessel in the foreign or domestic commerce of the United States or in the fisheries;
- (2) owns, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries;
- (3) was operating a vessel in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the United States Government;
- (4) owned, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government; or
- (5) had acquired or was having constructed a vessel to operate in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government.

(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.

(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>
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, subd. (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 elec-

tion 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.

(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>
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, subd. (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-money indebtedness of the new vessel that represents a gain not recognized for tax purposes under section 53306 of this title.

(Pub. L. 109-304, §8(c), Oct. 6, 2006, 120 Stat. 1589.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
53307	46 App.:1161(d).	June 29, 1936, ch. 858, title V, §511(d), as added Oct. 10, 1940, ch. 849, 54 Stat. 1106; July 17, 1952, ch. 939, §11, 66 Stat. 763.