

Thus, if the Administration determines and certifies to the Secretary of the Treasury that for causes within the control of the taxpayer construction under a contract is not completed with reasonable dispatch, the entire amount of the gain represented in the portion of the construction reserve fund obligated under the contract will be recognized even though all other conditions have been satisfied. In case of non-compliance with the requirements of section 511 of the Act or the regulations in this part, see the provisions of § 2.1-18 as to the allocation of gain.

(c) *Unreasonable accumulation.* Non-compliance with the provisions of section 511 of the Act or the regulations in this part relative to the utilization of the deposited amounts may also, inasmuch as the provision of section 511(f) of the Act is then inapplicable, warrant an examination to ascertain whether such amounts constitute an unreasonable accumulation of earnings and profits within the meaning of Part I (section 531 and following), Subchapter G, Chapter I of the Internal Revenue Code of 1954, or corresponding provisions of prior law. If amounts are deposited and the fund maintained in good faith for the purpose of construction, reconstruction, reconditioning, and acquisition of new vessels, or for the liquidation of purchase-money indebtedness on such vessels, such amounts will be deemed to have been accumulated for the reasonable needs of the business.

#### § 2.1-24 Extent of tax liability.

(a) *Declared value excess-profits tax.* Gain which is includible in gross income under § 2.1-23 shall be included in gross income for all income and excess-profits tax purposes, but not for the purposes of the declared value excess-profits tax and the capital stock tax as provided in section 511(i) of the Act. In lieu of any adjustment with respect to such declared value excess-profits tax, there is imposed for any taxable year ending on or before June 30, 1945, in which the gain is realized an additional tax of 1.1 percent of the amount of the gain. No additional capital stock tax liability is incurred.

(b) *Improper deposits.* In the case of deposits in the construction reserve

fund of amounts derived from sources other than those specified in section 511 of the Act, or in the case of failure to deposit an amount equal to the "net proceeds" or "net indemnity" within the period prescribed in section 511(c) of the Act and § 2.1-15, the taxpayer obtains no suspension or postponement of any tax liability and the tax is collectible without regard to the provisions of section 511(c) of the Act.

(c) *Time for filing claim subsequent to election under section 511(c)(2).* If an election is made under section 511(c)(2) of the Act and paragraph (a)(2) of § 2.1-12, and if computation or recomputation in accordance therewith is otherwise allowable but is prevented, on the date of filing of notice of such election, or within six months thereafter, by any statute of limitation; such computation or recomputation nevertheless shall be made notwithstanding such statute if a claim therefor is filed within six months after the date of making such election. If as the result of such computation or recomputation an overpayment is disclosed a claim for refund should be made in accordance with § 301.6402-3 within such six months' period. For other rules applicable to the filing of claims for credit or refund of an overpayment of tax, see § 301.6402-2 of this chapter (Regulations on Procedure and Administration), relating to claims for credit or refund.

[T.D. 6820, 30 FR 6030, Apr. 29, 1965, as amended by T.D. 7410, 41 FR 11020, Mar. 16, 1976]

#### § 2.1-25 Assessment and collection of deficiencies.

Any additional tax, including the 1.1 percent amount imposed by section 511(i) of the Act, due on account of withdrawal from a construction reserve fund, or failure to comply with section 511 of the Act or the regulations in this part, is collectible as a deficiency. Interest upon such deficiency will run from the date the withdrawal or non-compliance occurs. The amount of any deficiency, including interest and additions to the tax, determined as a result of such withdrawal or non-compliance, may be assessed, or a proceeding in court for the collection thereof may be begun without assessment, at any time and without regard to any period of limitations or any other provisions of

law or rule of law, including the doctrine of res judicata.

#### § 2.1-26 Reports by taxpayers.

(a) *Information required.* With each income tax return filed for a taxable year during any part of which a construction reserve fund is in existence the taxpayer shall submit a statement setting forth a detailed analysis of such fund. The statement, which need not be on any prescribed form, shall include the following information with respect to the construction reserve fund:

(1) The actual balance in the fund at the beginning and end of the taxable year;

(2) The date, amount, and source of each deposit during the taxable year;

(3) If any deposit referred to in subparagraph (2) of this paragraph consists of proceeds from the sale, or indemnification of loss, of a vessel or share thereof, the amounts of the unrecognized gain;

(4) The date, amount, and purpose of each expenditure or withdrawal from the fund; and

(5) The date and amount of each contract, under which deposited funds are deemed to be obligated during the taxable year, for the construction, reconstruction, reconditioning, or acquisition of new vessels, or for the liquidation of purchase-money indebtedness on such vessels, and the identification of such vessels.

(b) *Records required.* Taxpayers shall keep such records and make such additional reports as the Commissioner of Internal Revenue or the Administration may require.

#### § 2.1-27 Controlled corporation.

For the purpose of section 511 of the Act and the regulations in this part a new vessel is considered as constructed, reconstructed, reconditioned, or acquired by the taxpayer if constructed, reconstructed, reconditioned, or acquired by a corporation at a time when the taxpayer owns not less than 95 percent of the total number of shares of each class of stock of the corporation.

#### § 2.1-28 Administrative jurisdiction.

Sections 2.1-3 to 2.1-11, inclusive, §§ 2.1-13 to 2.1-15, inclusive, and §§ 2.1-19

to 2.1-22, inclusive, deal primarily with matters under the jurisdiction of the Administration. Sections 2.1-12, 2.1-16 to 2.1-18, inclusive, and §§ 2.1-23 to 2.1-27, inclusive, deal primarily with matters under the jurisdiction of the Commissioner of Internal Revenue. Generally, matters relating to the establishment, maintenance, expenditure, and use of construction reserve funds and the construction, reconstruction, reconditioning, or acquisition of new vessels are under the jurisdiction of the Administration; and matters relating to the determination, assessment, and collection of taxes are under the jurisdiction of the Commissioner of Internal Revenue. Correspondence should be addressed to the particular authority having jurisdiction in the matter.

### PART 3—CAPITAL CONSTRUCTION FUND

Sec.

3.0 Statutory provisions; section 607, Merchant Marine Act, 1936, as amended.

3.1 Scope of section 607 of the Act and the regulations in this part.

3.2 Ceiling on deposits.

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3.11 Definitions.

AUTHORITY: Sec. 21(a) of the Merchant Marine Act of 1970 (84 Stat. 1026); sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

SOURCE: T.D. 7398, 41 FR 5812, Feb. 10, 1976, unless otherwise noted.

#### § 3.0 Statutory provisions; section 607, Merchant Marine Act, 1936, as amended.

SEC. 607 (a) Agreement Rules.

Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)) may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the "fund") with respect to any or all of such