

[CHAPTER 849]

AN ACT

To amend the Merchant Marine Act, 1936, as amended.

October 10, 1940
[H. R. 9581]
[Public, No. 840]

Merchant Marine Act, 1936, amendment.
49 Stat. 1995.
46 U. S. C., Supp. V, §§ 1151-1160.
"New vessel" defined.

49 Stat. 1995, 2008.
46 U. S. C., Supp. V, §§ 1151-1160, 1191-1204.
52 Stat. 969.
46 U. S. C., Supp. V, §§ 1271-1279.

Citizens operating vessels in U. S. commerce, fisheries, etc.
49 Stat. 1985.
46 U. S. C., Supp. V, § 1101.

Construction reserve fund.

Deposits of proceeds or indemnities in reserve fund.

Time limitation for deposits; exception.

"Net proceeds" and "net indemnity" defined.

Basis for determining gain or loss and depreciation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title V of the Merchant Marine Act, 1936, as amended, is hereby amended by adding at the end thereof a new section to read as follows:

"SEC. 511. (a) When used in this section the term 'new vessel' means any vessel (1) documented or agreed with the Commission to be documented under the laws of the United States; (2) constructed in the United States after December 31, 1939, or the construction of which has been financed under titles V or VII of this Act, as amended, or the construction of which has been aided by a mortgage insured under title XI of this Act as amended; and (3) either (A) of such type, size, and speed as the Commission shall determine to be suitable for use on the high seas or Great Lakes in carrying out the purposes of this Act, but not of less than two thousand gross tons or of less speed than twelve knots, unless the Commission shall determine and certify in each case that a vessel of a specified lesser tonnage or speed is desirable for use by the United States in case of war or national emergency, or (B) constructed to replace a vessel or vessels requisitioned or purchased by the United States.

"(b) For the purposes of promoting the construction of vessels necessary to carrying out the policy set forth in title I of this Act, any citizen of the United States who is operating a vessel or vessels in the foreign or domestic commerce of the United States or in the fisheries or owns a vessel or vessels being so operated, or who, at the time of purchase or requisition of the vessel by the Government, was operating a vessel or vessels so engaged or owned a vessel or vessels being so operated, may establish a construction reserve fund, for the construction or acquisition of new vessels, to be composed of deposits of proceeds from sales of vessels, indemnities on account of losses of vessels, earnings from the operation of vessels, and receipts, in the form of interest or otherwise, with respect to amounts previously deposited. Such construction reserve fund shall be established, maintained, expended, and used in accordance with the provisions of this section and rules or regulations to be prescribed jointly by the Commission and the Secretary of the Treasury.

"(c) In the case of the sale or actual or constructive total loss of a vessel, if the taxpayer deposits an amount equal to the net proceeds of the sale or to the net indemnity with respect to the loss in a construction reserve fund established under subsection (b), then, if the taxpayer so elects in his income-tax return for the taxable year in which the gain was realized, no gain shall be recognized to the taxpayer in respect of such sale or indemnification in the computation of net income for the purposes of Federal income or excess-profits taxes. For the purposes of this subsection no amount shall be considered as deposited in a construction reserve fund unless it is deposited within sixty days after it is received by the taxpayer except that in the case of amounts received on or before the date of enactment of this section or within sixty days after such date, the deposit may be made within one hundred and twenty days after the date of enactment of this section. As used in this subsection the term 'net proceeds' and the term 'net indemnity' mean the sum of (1) the adjusted basis of the vessel and (2) the amount of gain which would be recognized to the taxpayer without regard to this subsection.

"(d) The basis for determining gain or loss and for depreciation, for the purpose of Federal income or excess-profits taxes, of any new

vessel constructed or acquired by the taxpayer in whole or in part out of the construction reserve fund shall be reduced by that portion of the deposits in the fund expended in the construction or acquisition of the new vessel which represents gain not recognized under subsection (c).

“(e) For the purposes of this section, (1) if the net proceeds of a sale or the net indemnity in respect of a loss are deposited in more than one deposit, the amount consisting of the gain shall be considered as first deposited; (2) amounts expended, obligated, or otherwise withdrawn shall be applied against the amounts deposited in the fund in the order of deposit; and (3) if any deposit consists in part of gain not recognized under subsection (c), any expenditure, obligation, or withdrawal applied against such deposit shall be considered to consist of gain in the proportion that the part of the deposit consisting of gain bears to the total amount of the deposit.

“(f) With respect to any taxable year, amounts on deposit on the last day of such year in a construction reserve fund in accordance with this section and with respect to which all the requirements of subsection (g) have been satisfied, to the extent that such requirements are applicable as of the last day of said taxable year, shall not constitute an accumulation of earnings or profits within the meaning of section 102 of the Internal Revenue Code.

“(g) The provisions of subsections (e) and (f) shall apply to any deposit in the construction reserve fund only to the extent that such deposit is expended or obligated for expenditure, in accordance with rules and regulations to be prescribed jointly by the Commission and the Secretary of the Treasury, under a contract for the construction or acquisition of a new vessel or vessels entered into within two years from the date of such deposit, and only if under such rules and regulations—

“(1) within such period of two years not less than 12½ per centum of the construction or contract price of the vessel or vessels is paid or irrevocably committed on account thereof and the plans and specifications therefor are approved by the Commission to the extent by it deemed necessary; and

“(2) in case of a vessel or vessels not constructed under the provisions of this title or not purchased from the Commission, (A) said construction is completed, within six months from the date of the construction contract, to the extent of not less than 5 per centum thereof (or in case the contract covers more than one vessel, the construction of the first vessel so contracted for is so completed to the extent of not less than 5 per centum) as estimated by the Commission and certified by it to the Secretary of the Treasury, and (B) all construction under such contract is completed with reasonable dispatch thereafter.

“(h) The Commissioner of Internal Revenue is authorized under rules and regulations to be prescribed jointly by the Secretary of the Treasury and the Commission to grant extensions of the period within which the deposits shall be expended or obligated or within which construction shall have progressed to the extent of 5 per centum of completion as provided herein, but such extension shall not be for an aggregate additional period in excess of two years with respect to the expenditure or obligation of such deposits or more than one year with respect to the progress of such construction.

“(i) Any such deposited gain or portion thereof which is not so expended or obligated within the period provided, or which is otherwise withdrawn before the expiration of such period, or with respect to which the construction has not progressed to the extent of 5 per

Deposits and withdrawals.

Amounts on deposit on last day of taxable year.

53 Stat. 35.
26 U. S. C., Supp. V,
§ 102.

Applicability of designated subsections.

Certain extensions permitted.

Treatment of unexpended deposited gain or uncompleted construction.

centum of completion within the period provided, or with respect to which the Commission finds and certifies to the Secretary of the Treasury that, for causes within the control of the taxpayer, the entire construction is not completed with reasonable dispatch, if otherwise taxable income under the law applicable to the taxable year in which such gain was realized, shall be included in the gross income for such taxable year, except for the purpose of the declared value excess-profits tax and the capital stock tax. If any such deposited gain or portion thereof is so included in gross income for such taxable year, there shall (in addition to any other deficiency) be assessed, collected, and paid in the same manner as if it were a deficiency, an amount equal to 1.1 per centum of the amount of gain so included, such amount being in lieu of any adjustment with respect to the declared value excess-profits tax for such taxable year.

Collection of certain tax deficiencies.

“(j) Notwithstanding any other provision of law, any deficiency in tax for any taxable year resulting from the inclusion of any amount in gross income as provided by subsection (i), and the amount to be treated as a deficiency under such subsection in lieu of any adjustment with respect to the declared value excess-profits tax, may be assessed or a proceeding in court for the collection thereof may be begun without assessment, at any time: *Provided, however,* That interest on any such deficiency or amount to be treated as a deficiency shall not begin until the date the deposited gain or portion thereof in question is required under subsection (i) to be included in gross income.

Proviso.
Interest.

Applicability to sales or loss indemnifications.

“(k) This section shall be applicable to a taxpayer only in respect of sales or indemnifications for losses occurring within a taxable year beginning after December 31, 1939, and only in respect of earnings derived during a taxable year beginning after December 31, 1939.

When vessel deemed constructed or acquired.

“(l) For the purposes of this section a vessel shall be considered as constructed or acquired by the taxpayer if constructed or acquired by a corporation at a time when the taxpayer owns at least 95 per centum of the total number of shares of each class of stock of the corporation.

Meaning of terms.
53 Stat. 4.
26 U. S. C., Supp. V,
ch. 1.

“(m) The terms used in this section shall have the same meaning as in chapter 1 of the Internal Revenue Code.”

Approved, October 10, 1940.

[CHAPTER 850]

AN ACT

October 10, 1940
[H. R. 9734]
[Public, No. 841]

Authorizing allocation of funds for the construction of Saco Divide unit, Milk River project, and for other purposes.

Saco Divide unit,
Milk River project,
Mont.
Allocation of funds
for construction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in connection with the Saco Divide unit of the Milk River project there shall be included in the water users repayment obligations, in addition to the amounts that may be allocated by the President for the construction of pumping and distribution facilities and land development of this unit from funds appropriated for water conservation and utility projects by the Interior Department Appropriation Act, 1940, to be repaid as therein provided, that portion of the cost of the facilities of the Milk River project common to the Saco Divide unit and other units of the Milk River project that may be allocated to the Saco Divide unit by the Secretary of the Interior. The costs of Fresno Dam and Reservoir so allocated by the Secretary shall be included for repayment in not to exceed forty annual installments along with the costs of pumping and distribution facilities allocated by the

53 Stat. 719.
Repayment.

Fresno Dam and
Reservoir.
Repayment in annual
installments.