§ 391.5 Qualified withdrawals.

(a) In general. (1) A qualified withdrawal is one made from the fund during the taxable year which is in accordance with section 670(f)(1) of the Act, the agreement, and with regulations prescribed by the Secretary of Transportation and which is for the acquisition, construction, or reconstruction of a qualified vessel (as defined in § 391.11(a)(2)) or barges and containers which are part of the complement of a qualified vessel (or shares in such vessels, barges, and containers), or for the payment of the principal of indebtedness incurred in connection with the acquisition construction, or reconstruction of such qualified vessel (or a barge or container which is part of the complement of a qualified vessel).

(2) For purposes of this section the term share is used to reflect an interest in a vessel and means a proprietary interest in a vessel such as, for example, that which results from joint ownership. Accordingly, a share within the meaning of § 391.2(f) (relating to the definition of "agreement vessel" for the purpose of making deposits) will not necessarily be sufficient to be treated as a share within the meaning of this section.

(3) For purposes of this section, the term acquisition means any of the following:

(i) Any acquisition, but only to the extent the basis of the property acquired in the hands of the transferee is its cost. Thus, for example, if a party transfers a vessel and $1 million in an exchange for another vessel which qualifies for nonrecognition of gain or loss under section 1031(a) of the Code (relating to like-kind exchange), there is an acquisition to the extent of $1 million.

(ii) With respect to a lessee’s interest in a vessel, expenditures which result in increasing the amounts with respect to which a deduction for depreciation (or amortization in lieu thereof) is allowable.

(b) Payments on indebtedness. Payments on indebtedness may constitute qualified withdrawals only if the party...
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§ 391.6 Tax treatment of qualified withdrawals.

(a) In general. Section 607(g) of the Act and this section provide rules for the income tax treatment of qualified withdrawals including the income tax treatment on the disposition of assets acquired with fund amounts.

(b) Order of application of qualified withdrawals against accounts. A qualified withdrawal from a fund shall be treated as being made: First, out of the capital account; second, out of the capital gain account; and third, out of the ordinary income account. Such withdrawals will reduce the balance within a particular account on a first-in-first-out basis, the earliest qualified withdrawals reducing the items within an account in the order in which they were actually deposited or deemed deposited in accordance with this part. The date funds are actually withdrawn from the fund determines the time at which withdrawals are considered to be made.

(c) Reduction of basis. (1) If any portion of a qualified withdrawal for the acquisition, construction, or reconstruction of a vessel, barge, or container (or share therein) is made out of the ordinary income account, the basis of such vessel, barge, or container (or share therein) shall be reduced by an amount equal to such portion.

(2) If any portion of a qualified withdrawal for the acquisition, construction or reconstruction of a vessel, barge, or container (or share therein) is made out of the capital gain account, the basis of such vessel, barge, or container (or share therein) shall be reduced by an amount equal to—

(i) Five-eights of such portion, in the case of a corporation (other than an electing small business corporation, as defined in section 1371 of the Code), or

(ii) One-half of such portion, in the case of any other person.

(3) If any portion of a qualified withdrawal to pay the principal of an indebtedness is made out of the ordinary income account or the capital gain account, then the basis of the vessel, barge, or container (or share therein) with respect to which such indebtedness was incurred is reduced in the manner provided by paragraphs (c) (1) and (2) of this section. If the aggregate amount of such withdrawal from the ordinary income account and capital gain account would cause a basis reduction in excess of the party’s basis in such vessel, barge, or container (or