

SJR

46

FISCAL NOTE

No. 1

STATE OF ALASKA
1992 LEGISLATIVE SESSION

Bill Version: SJR 46

(S) Publish Date: 3-6-92

Revision Date: March 4, 1992

Department Affected: NONE

Title: Fishing vessel construction incentives

BRU: _____

Sponsor: Senator Eliason

Component: _____

Requestor: _____

COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER FUND SOURCE:						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Senator Lloyd Jones, Chairman Phone: 465-3743

Division: Senate Resources Date: 3/4/92

Approved by Commissioner: 

Agency: _____ Date: 3/4/92

ALASKA STATE LEGISLATURE SENATE

SENATOR RICHARD I. ELIASON

PRESIDENT OF THE SENATE
LABOR & COMMERCE COMMITTEE
RESOURCES COMMITTEE
RULES COMMITTEE
CHAIRMAN SPECIAL COMMITTEE ON
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Feb. 7, 1992

COMMENTS OF PRIME SPONSOR, SEN. DICK ELIASON, ON SJR 46
RELATING TO VESSEL CONSTRUCTION INCENTIVES AND THE MERCHANT
MARINE CAPITAL CONSTRUCTION FUND PROGRAM

The Capital Construction Fund program was established under the Merchant Marine Act for the purpose of improving the U.S. fishing fleet by encouraging the construction, reconstruction, or acquisition of fishing vessels with before-tax rather than after-tax dollars. (Section 607, Merchant Marine Act).

The program was designed to offer a tax incentive, essentially a form of advance or accelerated depreciation, to assist in the purchase of new vessels, and was intended to encourage the rehabilitation of the U.S. fishing fleet.

The Internal Revenue Service (in its publication 595 based on a Revenue Ruling), and the Tax Court in Eades v. Commissioner, 79 TC 985 (Dec. 8, 1982) have ruled that while the Merchant Marine Act provided that *taxable income* would be reduced by the amount deposited in the CCF, no provisions exist for *earnings* to be reduced in the determination of *self-employment tax*.

These rulings do not affect those who have entered into a CCF agreement as a corporation or a partnership, so it discriminates against those who have entered into the agreement as individual proprietors (or as married couples), and effectively penalizes them. The majority, roughly 70%, of CCF agreementholders are individuals, many of them Alaskans, and they represent only a fraction of the fishermen eligible to use the program.

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Feb. 7, 1992

page two

The self-employment tax add-back provision by the IRS effectively withdraws the very incentive the CCF program was established to provide. It is very likely discouraging many fishermen from using the CCF program, and is thus thwarting the intent of the U. S. Congress.

Last November Senator Ted Stevens introduced legislation that would amend the Internal Revenue Code (sec. 1402) and the Social Security Act (sec. 211) to exclude deposits to a Merchant Marine Act Capital Construction Fund account from net earnings for the purposes of computing self-employment tax (social security tax on a self-employed individual). It is retroactive to the 1986 tax year. A similar measure, H.R. 1363 was introduced in the House by Congressman Al Swift (WA).

Sen. Stevens has stated he believes the omission his bill seeks to correct was unintentional. He has pointed out that it is unfair for the Tax Code to permit fishermen to use their depreciation to reduce self-employment taxes, but to deny this deduction simply because they have utilized a Capital Construction Fund. This undermines the whole purpose of the fund.

There is a good chance that the changes Sen. Stevens is proposing may be tacked on as an amendment to a tax simplification bill this year. This measure demonstrates our unified support for changes in IRS rules which will benefit many Alaskans.

DAVID I. BOUTE, HAWAII
ERNEST F. HOLLINGS, SOUTH CAROLINA
J. BENNETT JOHNSON, LOUISIANA
GARETH H. BURROCK, NORTH DAKOTA
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PHIL GRAMM, TEXAS

United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-8025

March 22, 1991

JAMES H. ENGLISH, STAFF DIRECTOR
J. KEITH KENNEDY, MINORITY STAFF DIRECTOR

Dr. William W. Fox, Jr.
Asst Administrator for Fisheries
National Oceanic and Atmospheric Administration
Metro One Building, Room 9334
1335 East-West Highway
Silver Spring, MD 20910

Dear Bill:

This spring I will introduce a bill in the Senate to permit participants in Merchant Marine Act Capital Construction Funds (CCF) to reduce their self-employment income by the amount of contributions to their CCF. As you know, under current law, an amount equal to the amount deposited for the taxable year into a CCF account reduces taxable income, but not self-employment income. My amendment would reverse Revenue Ruling 79-413 and the Tax Court ruling in Eades v. Commissioner, 79 TC 985 (Dec. 8, 1982).

In my view, the purpose of the CCF program is to improve the US fishing fleet by allowing fishermen rapid accumulation of funds with which to replace or improve their vessels. Under Section 607 of the Merchant Marine Act, earnings deposited into a CCF are not taxed--this enables fishermen to make large downpayments or periodic payments on a new fishing vessel. Essentially, this is a form of advance or accelerated depreciation to assist in the purchase of new vessels.

Depreciation on a commercial fishing vessel can normally be used to reduce both income tax and self-employment tax liability. However, the Internal Revenue Service and the Tax Court have ruled that although the Merchant Marine Act provided that *taxable income* should be reduced by the amount deposited in a CCF, no provisions exist for earnings to be reduced in the determination of *self-employment tax*.

I believe this omission was unintentional. It is unfair for the Tax Code to permit fishermen to use their depreciation to reduce self-employment taxes, but to deny this deduction simply because they have utilized the CCF program. This reduces the benefits CCF can provide to fishermen, which undermines the purposes of the program.

In the preparation of my legislation, it would be most helpful to know the position of the Fishery Service. In particular, I would appreciate any published opinions or positions the Fishery Service has taken on this self-employment tax issue during the existence of the CCF program. You should be aware that I may make this information available to constituents who are seeking to resolve these questions through litigation.

Bill Fox / CCF
3/22/91 pg 2

My staff tells me that Dorothy Bostic, in your Capital Construction Fund Office, may also have background information which could assist me in resolving this problem. I would appreciate any information she may have, as well, including statistical data which would assist us in determining the revenue impact of changing the law.

If you have any questions about this inquiry, please contact Chuck Konigsberg at 202-224-3699. Thank you for your assistance.

With best wishes,

Cordially,



TED STEVENS

cc: Ms. Dorothy Bostic
NOAA/NMFS
Financial Service Division
Capital Construction Fund Program
1335 East-West Highway, 5th Floor

"(d) CERTAIN REQUIREMENTS WITH RESPECT TO LONG-TERM CARE FACILITIES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the amount of a fellowship provided for an individual attending the school will not exceed the amount described in subsection (c)(2).

"(e) REQUIREMENT OF APPLICATION.—The Secretary may not award a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated \$5,000,000 for each of the fiscal years 1992 through 1996."

SEC. 217. PRIMARY CARE TRAINING PROGRAM.

Subpart I of part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 222. PRIMARY CARE TRAINING PROGRAM.

"(a) IN GENERAL.—The Secretary may award grants to public or nonprofit private schools of nursing for the establishment or expansion of clinical training sites or training affiliations that shall be administered by such schools.

"(b) APPLICATION.—A school desiring to receive a grant under subsection (a) shall prepare and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary may require.

"(c) USE OF GRANTS.—Amounts received under grants awarded under subsection (a) shall be used to—

"(1) establish clinical training sites or new training affiliations to be run and staffed by the faculty and students of such grantee school, to provide nursing students with training in the delivery of primary care in rural areas or in areas on or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code);

"(2) provide for all aspects of clinical training program development, faculty enhancement and student scholarships; and

"(3) carry out any other activities determined appropriate by the Secretary.

"(d) DESIGN.—The training sites established under subsection (a)(1) shall be designed to provide at least 25 percent of the school's nursing students with a structured clinical experience in primary care.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$5,000,000 for each of the fiscal years 1992 through 1996."

SEC. 218. TECHNICAL AMENDMENTS.

Title VIII is amended—

(1) in section 836(b)(1) (42 U.S.C. 297(b)(1)) by striking out the period and inserting in lieu thereof a semicolon;

(2) in section 831(a) (42 U.S.C. 298(a)) by striking out "a Advisory" and inserting in lieu thereof "an Advisory"; and

(3) in section 836(a) (42 U.S.C. 298(b)(a)) by striking out "as result of" and inserting in lieu thereof "as a result of".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 201. SAVINGS PROVISION WITH RESPECT TO CURRENT GRANTS OR CONTRACTS.

Notwithstanding any other provision of law, in the case of any authority for the

provision of a grant or contract that is terminated by any provision of this Act, the Secretary of Health and Human Services shall, notwithstanding the termination of such authority, continue in effect any grant or contract awarded or entered into under the authority that is in effect on the day before the date of enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such grant or contract, or in approving the most recent request made (prior to such date of enactment) for the continuation of such grant or contract, as the case may be.

By Mr. STEVENS:

S. 1934. A bill to exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment; to the Committee on Finance.

EXCLUSION OF CERTAIN FUNDS DEPOSITED INTO CAPITAL CONSTRUCTION FUND ACCOUNTS

Mr. STEVENS. Mr. President, today I am introducing a bill to permit participants in the Merchant Marine Capital Construction Fund—or CCF—Program to reduce their self-employment income by the amount of contributions to their CCF account. Under current law, an amount equal to the amount deposited for the year into a CCF account reduces taxable income, but not self-employment income. My amendment would reverse revenue ruling 79-413 and the Tax Court ruling in *Eades v. Commissioner*, 79 TC 985—December 8, 1982.

The purpose of the Capital Construction Fund Program, which was created by the Merchant Marine Act in 1936, is to improve the U.S.-flag merchant marine by providing fishermen a mechanism to facilitate accumulation of funds with which to acquire, construct, or reconstruct vessels—including processing and transporting vessels. This is accomplished by permitting any citizen owning or leasing an eligible vessel to enter into an agreement with the Secretary of Commerce to establish a Capital Construction Fund. Taxation of funds deposited into a CCF fund are deferred, in order to facilitate the accumulation of funds required for the acquisition, construction, or reconstruction of the specified vessel(s).

Essentially, this is a form of advance depreciation. Earnings which are placed into the CCF accounts are not subject to the income tax. However, when funds are taken from the CCF accounts to acquire, construct or reconstruct a vessel, the basis of the vessel is reduced to reflect the tax benefit received when the money was originally deposited.

The advance depreciation benefit does not, however, apply to self-employment income. The Internal Revenue Service and the U.S. Tax Court have ruled that although the Merchant Marine Act provided that taxable income should be reduced by the amount deposited into a CCF, no provisions exist for earnings to be reduced

in the determination of self-employment tax. Fishermen using the CCF program are therefore, in a sense, double-taxed with reference to self-employment income. They pay tax on their self-employment income at the time of the CCF deposit, and lose future depreciation deductions against self-employment income due to the basis reductions required by the program.

Despite this apparent double taxation, the Tax Court found it "unlikely that Congress ever considered whether deposits into a capital construction fund established pursuant to Section 607 of the Merchant Marine Act should be subject to the self-employment tax." Certainly, the court is correct as to the law setting up the CCF program because when Congress enacted the Merchant Marine Act in 1936, the self-employment tax did not exist. The court, however, went on to find that subsequent Merchant Marine Act amendments fail to indicate any congressional intent to apply the CCF deferrals to self-employment income.

Mr. President, there continue to be disputes and court actions regarding congressional intent on this matter. I believe the Congress should squarely address this issue and make clear that deposits into CCF accounts will reduce self-employment income. The current situation where individuals must lose future depreciation against their self-employment income in order to utilize the CCF program is inconsistent with that program's purpose. It simply doesn't make sense to provide reduction of taxable income as an incentive to use the CCF program, and at the same time have a disincentive on the self-employment income side. This reduces the benefits CCF can provide to fishermen, which undermines the purposes of the program. I have, in fact, been told by administrators at the Fisheries Service that some fishermen are not using CCF because of the double taxation disincentive.

The bill I am introducing today makes clear that deposits into CCF accounts will reduce—in addition to taxable income—"net earnings from self-employment." In addition, the bill provides for recapturing self-employment taxes for funds which are withdrawn from CCF accounts for nonqualified purposes, that is, purposes other than acquisition, construction, or reconstruction of qualified vessels. Finally, the bill would apply the self-employment tax deferral to all tax cases beginning with tax year 1986, and would provide 1 year from the date of enactment during which time tax refunds pursuant to this legislation could be claimed.

I thank my colleagues for their attention and urge the Finance Committee to act on this legislation.

By Mr. SIMPSON (for himself,
Mr. WALLOR, Mr. BURNS, Mr.

Ted Stevens

United States Senator For Alaska

S. 1934



Contact: Press Office
(202) 224-5209

FOR IMMEDIATE RELEASE
Friday, November 15, 1991

STEVENS BILL WOULD BRING TAX RELIEF FOR FISHERMEN

Fishermen who make deposits into Capital Construction Funds (CCF) would no longer face a form of double taxation under a bill introduced by Senator Ted Stevens.

Under current law, taxation of funds deposited into a CCF are deferred, so that funds can accumulate more quickly in order to buy, construct or reconstruct a vessel.

Taxation of the deposited funds does not occur until the vessel is actually built or refurbished, at which time the permitted depreciation deductions are reduced in the amount of the CCF tax deferral.

This advance depreciation benefit does not, however, apply to self-employment income, according to Stevens. This distinction is important because most Alaska fisherman are self-employed.

The Internal Revenue Service and the U.S. Tax Court have ruled that although the Merchant Marine Act provided that taxable income should be reduced by the amount deposited in a CCF, no provision exists for earnings to be reduced in the determination of self-employment tax.

Stevens' legislation would amend the Merchant Marine Act to make clear that deposits in a CCF could also be applied to reduce self-employment income, thereby reducing the self-employment tax.

"If we are going to defer income tax with deposits to CCFs, we should defer self-employment tax as well. Otherwise, we are defeating the purpose of the program," said Stevens.

Stevens' bill would apply the self-employment tax deferral to all tax cases beginning with tax year 1986, and would provide one year from enactment of the bill for fishermen to apply for refunds.

Similar legislation has been co-sponsored in the House of Representatives by Congressman Don Young.

Alaska Offices: Anchorage: 271-5915 Fairbanks: 456-0261 Juneau: 586-7400
Kenai: 23-5808 Ketchikan: 225-6880

102D CONGRESS
1ST SESSION

S. 1934

To exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment

IN THE SENATE OF THE UNITED STATES

NOVEMBER 7 (legislative day, OCTOBER 29), 1991

Mr. STEVENS introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment

1 *Be it enacted by the Senate and House of Rep-*
2 *resentatives of the United States of America in Congress*
3 *assembled,*

4 SECTION 1. DEPOSITS IN CAPITAL CONSTRUCTION FUND
5 ACCOUNT EXCLUDED FROM NET EARNINGS
6 FROM SELF-EMPLOYMENT.

7 (a) IN GENERAL.—Subparagraph (A) of section
8 607(d)(1) of the Merchant Marine Act, 1936 (46 U.S.C.
9 1177(d)(1)) is amended by striking “taxable income (de-
10 termined without regard to this section and section 7515

1 of such Code) for the taxable year shall be reduced” and
2 by inserting “taxable income and net earnings from self-
3 employment attributable to the operation of the agreement
4 vessels (determined without regard to this section and sec-
5 tion 7518 of such Code) for the taxable year shall each
6 be reduced”.

7 (b) NONQUALIFIED WITHDRAWALS.—Section 607(h)
8 of the Merchant Marine Act, 1936 (46 U.S.C. 1177(h))
9 is amended by adding at the end thereof the following new
10 paragraph:

11 “(7) NONQUALIFIED WITHDRAWALS SUBJECT
12 TO SELF-EMPLOYMENT TAX.—

13 “(A) IN GENERAL.—In the case of any
14 taxable year for which there is a nonqualified
15 withdrawal (including any amount so treated
16 under paragraph (5)), the tax imposed by sec-
17 tion 1401 of the Internal Revenue Code of 1986
18 (at a rate for such taxable year unless otherwise
19 established by the taxpayer to the satisfaction
20 of the Secretary) shall be determined without
21 regard to section 230 of the Social Security Act
22 (42 U.S.C. 430).

23 “(B) TAX BENEFIT RULE.—If any portion
24 of a nonqualified withdrawal is properly attrib-
25 utable to deposits (other than earnings on de-

1 posits) made by the taxpayer in any taxable
2 year which did not reduce the taxpayer's liabil-
3 ity for tax under section 1401 of such Code for
4 any taxable year preceding the taxable year in
5 which such withdrawal occurs, such portion
6 shall not be taken into account under subpara-
7 graph (A).".

8 (c) CONFORMING AMENDMENTS.—

9 (1) Subparagraph (A) of section 7518(c)(1) of
10 the Internal Revenue Code of 1986 is amended by
11 striking "taxable income (determined without regard
12 to this section and section 607 of the Merchant Ma-
13 rine Act, 1936) for the taxable year shall be re-
14 duced" and by inserting "taxable income and net
15 earnings from self-employment attributable to the
16 operation of the agreement vessels (determined with-
17 out regard to this section and section 607 of the
18 Merchant Marine Act, 1936) for the taxable year
19 shall each be reduced".

20 (2) Section 7518(g) of the Internal Revenue
21 Code of 1986 is amended by adding at the end
22 thereof the following new paragraph:

23 “(7) NONQUALIFIED WITHDRAWALS SUBJECT
24 TO SELF-EMPLOYMENT TAX.—

1 “(A) IN GENERAL.—In the case of any
2 taxable year for which there is a nonqualified
3 withdrawal (including any amount so treated
4 under paragraph (5)), the tax imposed by sec-
5 tion 1401 (at a rate for such taxable year un-
6 less otherwise established by the taxpayer to the
7 satisfaction of the Secretary) shall be deter-
8 mined without regard to section 230 of the So-
9 cial Security Act (42 U.S.C. 430).

10 “(B) TAX BENEFIT RULE.—If any portion
11 of a nonqualified withdrawal is properly attrib-
12 utable to deposits (other than earnings on de-
13 posits) made by the taxpayer in any taxable
14 year which did not reduce the taxpayer’s liabil-
15 ity for tax under section 1401 for any taxable
16 year preceding the taxable year in which such
17 withdrawal occurs, such portion shall not be
18 taken into account under subparagraph (A).”.

19 (3) Section 1403(b) of the Internal Revenue
20 Code of 1986 is amended by adding the following
21 new paragraph:

22 “(3) For treatment of earnings of ship con-
23 tractors deposited in special reserve funds, see sub-
24 sections (d) and (h) of section 607 of the Merchant

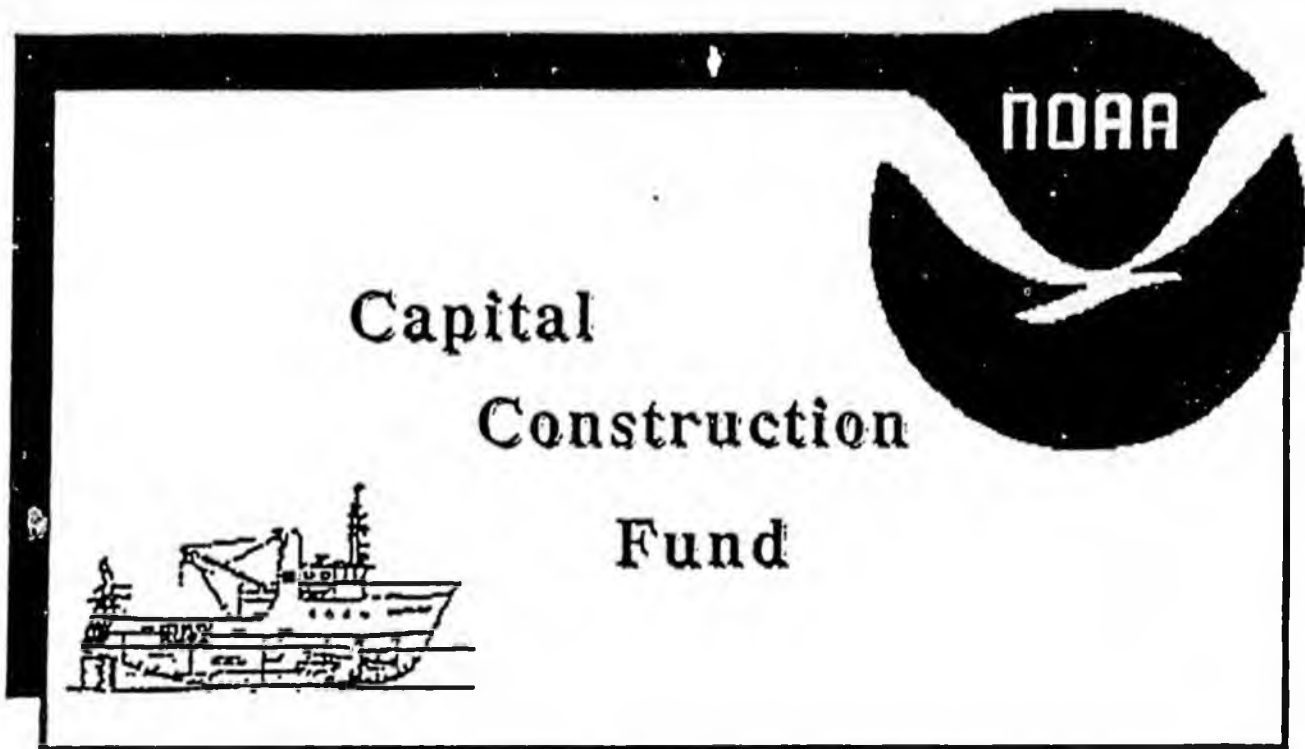
1 Marine Act, 1936 (46 U.S.C. 1177) and subsections
2 (c) and (g) of section 7518.”

3 (d) EFFECTIVE DATE.—

4 (1) IN GENERAL.—The amendments made by
5 this section shall apply to taxable years beginning
6 after December 31, 1985.

7 (2) WAIVER OF STATUTE OF LIMITATIONS.—If
8 on the date of the enactment of this Act (or at any
9 time within 1 year after such date of enactment) re-
10 fund or credit of any overpayment of tax resulting
11 from the application of the amendment made by
12 subsection (a) is barred by any law or rule of law,
13 refund or credit of such overpayment shall, neverthe-
14 less, be made or allowed if claim therefore is filed
15 before the date 1 year after the date of the enact-
16 ment of this Act.

○



1. What is the Capital Construction Fund (CCF) program?

The CCF program enables fishermen to construct, reconstruct, or acquire fishing vessels with before-tax, rather than after-tax dollars.

It allows fishermen to defer taxable income from their fishing vessels. This tax-deferred fishing income under the CCF program when used to help pay for a vessel project is, in effect, an interest-free loan from the Government.

The purpose of the CCF program is to improve the U.S. fishing fleet by allowing fishermen rapid accumulation of funds with which to replace or improve their vessels.

2. Who is eligible?

Eligibility is limited to U.S. citizens. Applicants must own or lease a U.S.-built fishing vessel of at least 2 net tons and have an acceptable program for constructing, reconstructing, or acquiring a fishing vessel of at least 2 net tons. Any vessel not U.S. constructed, but documented by Coast Guard or State registered on or before April 15, 1970, also qualify. The term fishing vessel includes vessels used commercially for catching, transporting, and processing fish. Also included are commercial passenger-carrying vessels used for fishing parties.

3. How do you get into the CCF program?

You must enter into a CCF Agreement with the Secretary of Commerce through the National Marine Fisheries Service (NMFS). An application kit can be obtained from NMFS. If you need any assistance or advice, please contact our Headquarters Office at the following location:

NOAA/NMFS Financial Services Division
 Capital Construction Fund Program
 1335 East-West Hwy., 5th Floor
 Silver Spring, MD 20910
 Telephone No.: (301) 427-2393.

You may apply at any time. But to be applicable in a given tax year, you must enter into a CCF Agreement on or before the due date (with extensions) for filing your Federal tax return.

If you decide to enter the CCF program, we urge you to submit your CCF application as soon as possible, or at least 45 days in advance of the tax due date, to ensure timely execution by NMFS.

4. How does the CCF program work after you get into it?

Your CCF Agreement will establish:

- (a) Which of your fishing vessels will be

eligible for deferral of taxable income. These are called "Schedule A" vessels.

(b) What kind of vessels you will construct, reconstruct, or acquire with your CCF account. These are called "Schedule B" vessels or objectives.

(c) Where you will keep the tax-deferred income you will use to pay for your objectives. The place where you keep this money is called the "CCF depository," and the account in which you keep it is called the "CCF account."

You then decide what portion of your Schedule A vessels' taxable income you want to deposit into your CCF account for the tax year. (The CCF deferral cannot create a loss in your fishing income, but can reduce it to zero.)

You then deposit that income, on or before your tax due date, with extensions, into your CCF account. Thus, you have put it into your own account in your own depository and will have it available to help you pay for your Schedule B vessels.

5. How does the CCF program save me money? Show me an example for an individual fisherman.

Assume you want to build a new fishing vessel in 5 years and want to start saving for it now.

Without the CCF program, 5-years savings would accumulate as shown in Figure 1

With the CCF program, 5-years savings would accumulate as shown in Figure 2. As you can see, use of the CCF program during those 5 years will give you an additional \$119,772 to pay for your new vessel. This means that the amount you will need to borrow will be \$119,772 less than it would be if you had not used the CCF program. You also save the interest which you would otherwise have had to pay to borrow this amount. This sum may well represent the required downpayment on your new vessel.

6. Show me another example, this time using a corporate owner.

Assume your corporation wants to build a new fishing vessel in 5 years and decides to set aside \$30,000 a year for the downpayment. Your yearly taxable fishing income must be \$35,300 in order to save the \$30,000 per year. Without the CCF program, 5-years savings would accumulate as shown in Figure 3:

With the CCF program, the corporation could deposit the full \$35,300 and funds would be accumulated as shown in Figure 4:

7. How do you notify the Internal Revenue Service?

Figure 1: Five-Year Savings without CCF

Annual taxable income		\$100,000
Living expenses	\$(40,000)	
Federal taxes on \$100,000	\$(28,440)	(68,440)
Annual savings		<u>\$31,560</u>
5 years' savings (5x\$31,560)		\$157,800
5 years' interest earned	\$34,473	
5 years' Federal taxes on interest earned	\$(12,914)	
Net interest saved		\$21,559

When you prepare your Federal tax return, simply deduct from your taxable fishing income the eligible amounts you deposited to your CCF account during the tax year (list on Other Expenses/Deductions line).

8. Do deposits in a CCF account also defer State income taxes?

This depends on the State in which you report your income. You should check with your

Assume that in each of the next 5 years your taxable income from your present fishing operation is \$100,000. Assume that you are married and need \$40,000 a year for living expenses and taxes.

State income tax office. If your State has adopted the CCF provisions of Federal law (or uses Federal tax statutes), then your State income tax will likewise be deferred.

Annual taxable income		\$100,000
Living expenses	\$(40,000)	
Federal taxes on \$50,900	\$(10,900)	<u>(50,900)</u>
Annual CCF savings		<u>\$ 49,100</u>
5 years' savings (5x\$49,100)		\$245,500
5 years' interest earned and deposited into CCF		<u>\$ 53,631</u>
TOTAL ACCUMULATIONS WITH CCF		<u>\$299,131</u>

Before making any CCF withdrawal you must obtain NMFS consent. Once consent is granted, you simply withdraw the money as you would from any other account. If you need to make a quick CCF withdrawal for a qualified purpose, a phone call will generally result in verbal consent. The necessary paper work can be completed later.

BEFORE MAKING A WITHDRAWAL, YOU

MUST OBTAIN NMFS APPROVAL. Without NMFS approval, you may jeopardize the tax-deferral associated with any such withdrawal.

9. How do you establish the CCF account?

Your CCF account can be a regular checking or savings account established at your local bank, savings and loan, or other Federally insured institution. Your CCF account is in your own name. It must be separate from your general operating account or personal savings or checking account. It must not be used for any purpose other than CCF deposits and withdrawals.

You may use more than one depository if all are designated in the CCF Agreement. After entering a CCF, additional depositories may be added by submitting to NMFS the name, address, and date the account was opened.

10. How do you withdraw CCF deposits?

11. Can CCF program funds be used to pay off a mortgage?

Yes. Where you finance with a mortgage the cost of constructing, reconstructing, or acquiring a Schedule B vessel, you may use your CCF account to pay the principal of that mortgage.

NMFS consents to CCF withdrawals of an amount equal to the total cost of the completed Schedule B project (even though payment is to be made by a series of withdrawals over an extended period of time to meet installment payments as they come due). Thus, you will not have to request NMFS consent to each and every separate installment payment.

Annual taxable income		\$ 35,300
Federal taxes		<u>\$(5,300)</u>
Annual Savings		<u>\$ 30,000</u>
5 years' savings (5x\$30,000)		\$150,000
5 years' interest earned	\$32,770	
5 years' Federal taxes on interest earned	(10,188)	
Net interest saved		<u>\$ 22,582</u>
TOTAL SAVINGS WITHOUT CCF		<u>\$172,582</u>

12. How much can be deposited into a CCF account each year?

The total amount you can deposit during any one tax year is equal to the total of the following for each Schedule A vessel you designate in your CCF Agreement:

(a) 100 percent of taxable income from vessel operation;

(b) 100 percent of vessel depreciation;

(c) 100 percent of the net proceeds from the sale or other disposition of vessels; and/or

(d) 100 percent of the earnings from investment or reinvestment of amounts deposited. (When you deposit into your CCF account the earnings of that CCF account, you may also defer the Federal tax which you would otherwise have paid on those earnings.)

Although you can deposit up to 100 percent of the amounts listed in (a) through (d) above, it is up to you to decide how much you actually can or

meet the minimum deposit requirement for future years.

14. May you keep the investment income (earnings) of the CCF rather than redepositing it into the CCF account?

Yes, if you withdraw it within your taxable year. IF NOT, THESE EARNINGS BECOME AN ASSET OF YOUR CCF ACCOUNT. If withdrawn, however, the earnings will be taxable income to you. If the earnings are redeposited or left in your CCF account, taxation on those earnings is deferred and is available for payment of the cost of your Schedule B projects.

Figure 4: Total Accumulation with CCF

Annual taxable income	\$ 35,300
Federal taxes	-0-
Annual CCF savings	\$ 35,300
5 years' savings (5x\$35,300)	\$176,500
5 years' interest earned and deposited into CCF	\$ 38,558
TOTAL ACCUMULATIONS WITH CCF	\$215,058

15. If you have already deposited 100 percent of your taxable income into a CCF account, why would you want to deposit any depreciation?

Although you do not get an additional deduction of depreciation, you may redeposit CCF account earnings from your deposit of depreciation and defer taxation on those earnings. When you are

want to deposit.

Whatever you decide to deposit cannot, of course, be more than the total amount needed to pay for the cost of all Schedule B projects.

13. How much must be deposited into a CCF account each year?

The minimum annual deposit is 2 percent of the estimated cost of all Schedule B projects; or, if that 2 percent is more than half of your taxable income in any year, then half of your taxable income. Any earnings of the CCF account which are redeposited may be used to meet the minimum annual deposit.

If you plan to complete a Schedule B project more than 3 years in the future, you may meet the annual 2 percent test on a 3-year basis. In other words, you must deposit 6 percent every 3 years. You may make deposits in any amount, and in any year, provided that you deposit a total of 6 percent of the estimated cost of all Schedule B projects for each 3-year period. You may carry forward excess deposits (over the 2 percent in any one year) to

saving money for the construction of a new vessel, this can considerably accelerate your ability to accumulate funds.

16. What benefit is derived from a CCF deposit of full net proceeds from the sale of a vessel?

If you sell a Schedule A vessel, tax on any gain may be deferred by depositing the full net proceeds in your CCF account. This applies to installment sales also, except that you must deposit the total gain in the year of sale. No deferment, not even a partial deferment, is allowed except with a deposit of full net proceeds. It's either all or nothing.

17. Why should you enter a CCF Agreement after the end of a tax year instead of doing so for the following tax year?

There are two advantages.

First, deposits into your CCF account made after the tax year's end, but before the due date of your Federal tax return, may be applied to the

previous tax year.

Second, if in the year before entering into a CCF Agreement, you make a downpayment on a vessel which would have qualified under the Agreement, NMFS will approve it as eligible. Any transaction (downpayment, mortgage payment, payment on reconstruction, etc.) must have been such that it would have qualified if the CCF Agreement existed.

For example, assume you built a vessel in 1987 and did not know of the CCF program until early 1988. You could enter the CCF program before your Federal tax due date, and NMFS would approve any amounts you paid on the vessel in 1987 as if they had been deposited to or withdrawn from your CCF account. These deposits and withdrawals are called "constructive." This would give you a 1987 income tax deduction of a like amount.

18. When income is deferred under the CCF, and you use it to pay for Schedule B projects, do you ever have to pay taxes somehow?

Yes, income deferred under the CCF program and used to pay for Schedule B projects is subject to future "recapture" by the IRS.

This "recapture" is accomplished by a reduction in the basis for depreciation of Schedule B vessels. In other words, future depreciation allowance for these vessels will be reduced to compensate for the income you deferred under your CCF Agreement.

"Recapture" of the deferred income occurs over the depreciable life of your Schedule B vessel. So the interest-free-loan aspect continues for as long as you have depreciation to claim on the vessel.

19. If you lose future vessel depreciation, why should you enter the CCF?

Although the future basis for depreciation of your Schedule B vessels is reduced, remember that you did receive a deduction of a like amount in the years in which you made your CCF deposits. Therefore, you really have not lost anything as a result of this future reduction. You have gained. You have gained a relatively quick accumulation of capital for vessel construction. You have gained by not having to borrow as much to pay construction cost, thus reducing your interest payments on

borrowed funds. You have gained by having CCF funds available to you interest free.

20. If deposits and withdrawals associated with these different sources receive different treatment, how do you keep track of all of this?

Although you have only one CCF Agreement, it has three separate "bookkeeping accounts" as follows: (a) Capital account; (b) Capital Gain account; and (c) Ordinary Income account. These bookkeeping accounts must be maintained because the Tax Reform Act of 1986 requires taxpayers to distinguish between ordinary and capital gains.

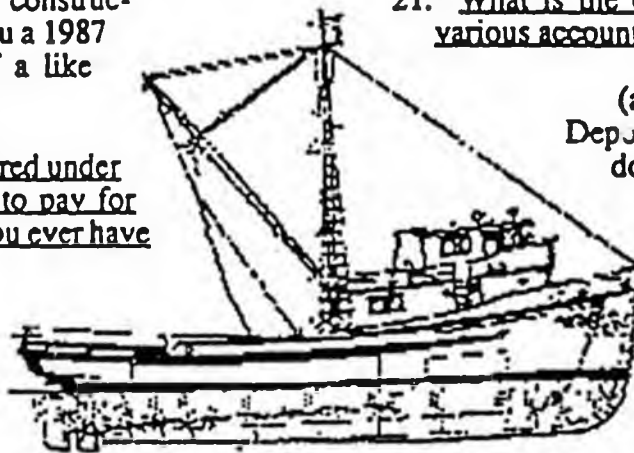
21. What is the effect of deposits into the various accounts?

(a) The Capital Account. Deposits into the capital account do NOT generate a CCF tax deduction. These are principally deposits of vessel depreciation and proceeds from the sale of CCF Agreement vessels. Since you receive an income tax deduction for depreciation whether or not you have a CCF Agreement, you naturally

do not receive another deduction when you make a deposit to your CCF account which is attributable to this depreciation. If, however, you have cash in excess of that which you want to, or may, deposit to the ordinary income account, you can deposit it to the capital account under the depreciation ceiling. Any interest earned by this deposit can be redeposited and the taxes thereon deferred.

(b) The Capital Gain Account. Deposits into the capital gain account are mainly from the sale of Agreement vessels. Insurance proceeds may also be deposited if your vessel sinks. Taxes on these deposits are deferred.

(c) The Ordinary Income Account. Deposits into the ordinary income account create an immediate income tax deduction. You deposit to this account your current year's earnings on which you wish to defer taxation. You also deposit to this account the ordinary income portion (depreciation recapture) from the sale or other disposition of Agreement vessels and the interest income of the CCF account itself.



22. What are the effects of withdrawals from the various accounts?

Remember that no income tax is paid on amounts deposited in the capital gain or ordinary income accounts. Instead, the deferred income tax is recaptured by decreasing the depreciable basis of your Schedule B project when you withdraw funds from your CCF account. The effect of withdrawals from the three accounts is as follows:

(a) The Ordinary Income Account. QUALIFIED withdrawals from the ordinary income account reduce the depreciable basis of your Schedule B project by an amount equal to the withdrawal.

You must include nonqualified withdrawals from the ordinary income account in your income tax return as ordinary income in the year you make the withdrawal.

(b) The Capital Gain Account. QUALIFIED withdrawals from the capital gain account reduce the depreciable basis of your Schedule B project in an amount equal to the applicable tax rate for an individual or corporation.

You must include nonqualified withdrawals from the capital gain account in your income tax return in the year you make the withdrawal.

(c) The Capital Account. You did not receive any income tax deduction at the time of the capital account deposit. So any withdrawal from the capital account is equivalent to a return of capital and, accordingly, has no effect on your taxable income or the depreciable basis of Schedule B vessels.

23. Can you choose the account from which a withdrawal will be made?

No. Qualified withdrawals come, first, from the capital account; second, from the capital gain account; and, last, from the ordinary income account.

Nonqualified withdrawals are made in the reverse order; first, ordinary income; second, capital gain; and last, capital.

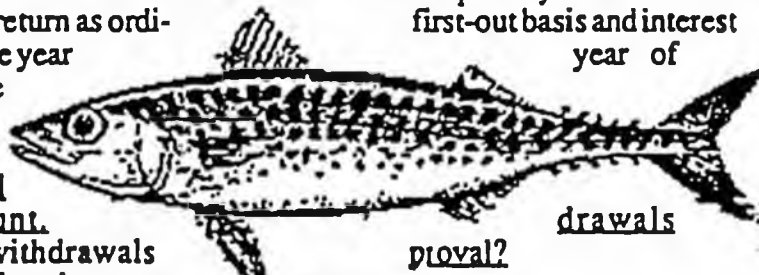
Generally, withdrawals from a particular account are made on a first-in/first-out basis.

24. Will nonqualified withdrawals be approved regardless of reason?

No. Nonqualified withdrawals will only be approved for good cause. For instance, should you incur a net operating loss and need funds to continue operation, NMFS would approve a nonqualified withdrawal upon proof of the need.

25. Are there any Penalties for Nonqualified Withdrawals?

All nonqualified withdrawals for taxable years beginning after December 31, 1986, will be taxed at the maximum rate applicable in the year you make the withdrawal. Nonqualified withdrawals stand alone as income and cannot be used to offset net operating losses. The tax on nonqualified withdrawals is subject to a self-assessed interest penalty. Withdrawals are made on a first-in/first-out basis and interest is charged from the year of deposit to the year of withdrawal.



26. What happens if you make withdrawals without prior approval?

Without NMFS approval, the withdrawal may be considered nonqualified. In addition to the tax consequences of a nonqualified withdrawal, this is a breach of your CCF Agreement and could result in its termination.

27. What happens if your CCF Agreement is Terminated?

If it is terminated, voluntarily or involuntarily, any balance remaining in the CCF will be treated as a nonqualified withdrawal. The balance in your CCF account will be considered income for the year of termination, possibly causing you a substantial tax liability for that tax year.

28. What effect does basis reduction have on future sale of a vessel?

Upon the sale of a Schedule B vessel, any reduction in depreciable basis is treated the same as depreciation claimed. Thus, any gain on the sale would be reported as ordinary income. However, if the net proceeds from that sale are deposited in a CCF account, taxation of the gain can again be deferred.

29. Are there penalties if you fail to complete the required second Schedule B objective?

Yes. In order to acquire a used vessel as a Schedule B objective, you must agree to a second Schedule B objective of either reconstructing that vessel or constructing another one at some time in the future. If you fail to do so, all previous withdrawals for acquisition of the used vessel may be considered nonqualified. At present, it is uncertain what will happen if the tax statute of limitations has expired in respect to any of the withdrawals.

If plans or circumstances change, however, the second Schedule B objective may be amended or revised with NMFS consent.

30. What if you make CCF deposits in excess of your taxable income?

You have several options available. The excess may: (a) be withdrawn, as if never deposited; or (b) be treated as a deposit under any ceiling, if available, and/or as a deposit under any ceiling for the next taxable year, if ceilings for prior years are filled.

31. What if your taxable income is changed by an IRS audit?

If an IRS audit results in an increase of your taxable income, you may make a deposit to your CCF equal to the increase if a ceiling from vessel operations is available. This deposit will be attributed to the year of the tax return which was audited. The deposit must be made within specified time limits.

If the audit results in a decrease in income, which reduces any ceilings below the amounts previously deposited in your CCF, you would have an overdeposit which could be treated as explained in No. 32.

32. Once you enter a CCF Agreement can Deposits or Withdrawals be considered as Constructive?

No, once you have entered into a CCF Agreement, all deposits and withdrawals must be physically made through your designated CCF account in order to qualify. If, however, you make an otherwise qualified payment outside of your CCF account, you may use your CCF account to reim-

burse yourself within 6 months from the date of the expenditure.

33. How many annual reports must be submitted to NMFS?

Only one. This is a "DEPOSIT/WITHDRAWAL REPORT" which you must submit not later than 30 days from the due date along with a copy of your "FEDERAL INCOME TAX RETURN" as filed with IRS.

34. How is the CCF program restricted in a Conditional Fishery?

You may enter a CCF Agreement to construct a new vessel for a conditional fishery if you are able to remove from that fishery within one year a vessel of equivalent capacity. The removed vessel must have operated that conditional fishery for at least 18 months prior to construction of the new vessel, and must be removed from all fishing or placed permanently in a non-conditional fishery. Reconstruction of a vessel in a conditional fishery will not be deemed to increase the harvesting capacity significantly if it operated substantially in the conditional fishery for at least 36 months before reconstruction.

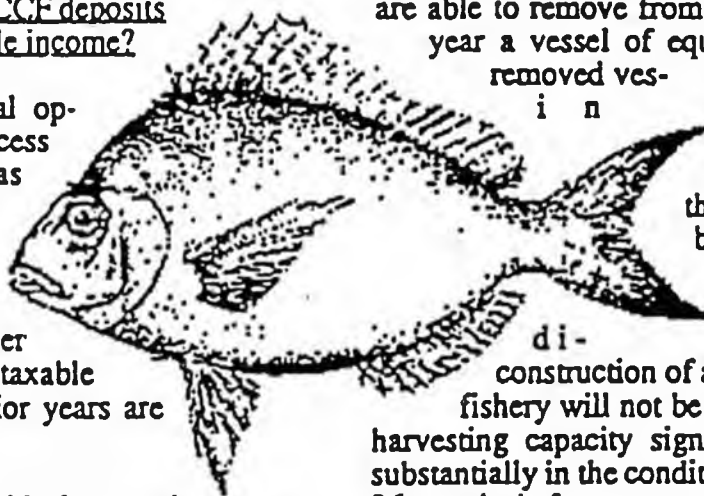
35. Can the CCF program and the Fisheries Obligation Guarantee (FOG) program be used together on the same vessel?

Yes. The FOG program provides private lenders a 100% U.S. Government guarantee of obligations financing up to 80% of the cost of constructing, reconstructing, or reconditioning fishing vessels of at least 5 net tons.

Long-term maturities (up to 20 years) can be obtained at very reasonable interest rates under the FOG program. If you cannot find a suitable lender, NMFS can help you find one.

An obligation guaranteed under the FOG program would finance the portion of your vessel project's cost which was not paid for from your CCF account at the time your vessel was delivered to you. You could, thereafter, continue to use the CCF program to pay off the obligation guaranteed under the FOG program.

If you are interested in applying under the FOG program, call or write a Regional Financial Services Branch of NMFS.



36. Are CCF Deposits a Tax-preference item to "C" Corporation Taxpayers?

Yes. This is the most significant change made by the Tax Reform Act of 1986. When tax-preference items reduce a "C" corporation's tax. Then it must calculate an alternative minimum tax. If the regular tax is greater than the alternative minimum tax, then the regular tax must be paid. Any alternative minimum tax in excess of the regular tax can be used as a tax credit in a later year when no alternative minimum tax is due.

Thus, a "C" corporation with a CCF must calculate an alternative minimum tax for any taxable year in which a CCF deposit is made after December 31, 1986.

The regular tax is calculated on taxable income, after subtracting tax-preference items. The alternative minimum tax of 20% is calculated on taxable income by: (a) adding back the tax-preference items, (b) subtracting depreciation allowances lost as a result of withdrawals of CCF deposits made after 12/31/86, and (c) subtracting a \$40,000 exemption (phased out on income over \$150,000).



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, Maryland 20910

NATIONAL MARINE FISHERIES SERVICE (NMFS)

FISHING VESSEL CAPITAL CONSTRUCTION FUND (CCF)

Swift's

Re: H. R. 1363 - Social Security Self-Employment Tax on CCF

The Internal Revenue Service (IRS), in their Publication 595 (which is based on a Revenue Ruling), instructs self-employed fishermen to add back their CCF deduction of taxable fishing income to refigure their Self-Employment Tax (S.E. Tax). In other words, they are being discriminated against because they entered into a CCF Agreement as an individual proprietor (husband and/or wife). If they had entered into a CCF Agreement as a different entity--Corporation or Partnership--their CCF deduction would not be subject to S.E. Tax.

MARAD has a CCF program also, but none of their Agreementholders are subject to S.E. Tax. MARAD's participants are all Corporations!

The CCF add-back for individuals (for S.E. Tax purpose) is DOUBLE TAXATION! When CCF monies are used to purchase a vessel and/or equipment, the Depreciable Basis of same must be reduced accordingly. For example, in 1988 a vessel was purchased for \$500,000 using CCF monies of \$100,000 as a down payment--in lieu of a \$50,000 deduction for Depreciation on Schedule C (based on 10-year straight line depreciation) only \$40,000 was allowed--thus creating more taxable income and more S.E. Tax, resulting in DOUBLE TAXATION. In 1989, the owner of this vessel worked on the Alaska oil spill and deducted \$200,000 for CCF, all of the monies were paid on his vessel mortgage. His vessel basis is now reduced to \$200,000, therefore, he can only claim \$20,000, etc., etc.!

CCF Program Participation - 1970 thru 1990

		<u>Individuals</u>	<u>Other</u>
Total No. of CCF's	= 6,336	4,524	1,812
No. CCF's Terminated	= <u>2,236</u>	<u>1,524</u>	<u>712</u>
Active No. of CCF's	= 4,100 1/	3,000	1,100

The majority of CCF Agreementholders are individuals (73%), as shown in the table above. This number is only a fraction of the fishermen eligible to use the CCF program. Over the years, I have been told many times that the S.E. Tax add-back provision by IRS is the major reason for many fishermen not using the CCF.

1/ As of March 22, 1991.

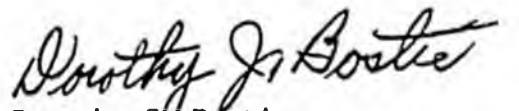


I did a sampling of the 1990 Federal tax returns for individuals with a CCF Agreement; i.e., 10% or 300 of the 3,000 total participants. The results are as follows:

1. 25% or 750 paid S.E. Tax on fishing income - no CCF deposit.
2. 20% or 600 paid maximum S.E. Tax - no CCF income deposit, deposited interest, sale proceeds of vessel, etc.
3. 20% or 600 paid maximum S.E. Tax - fishing income deposited.
4. 35% or 1,050 - half added back CCF deduction for S.E. Tax, the other half did not.

If that 35 percent (1,050) deducted \$35,000 (high estimate) per year for CCF and did not have to add the amount back, the total would equal \$36,750,000. The 1990 S.E. Tax schedule has you multiply that figure by .9235% to arrive at the amount subject to S.E. Tax, that amount would be \$33,938,625, you then multiply that amount by .153% to arrive at the S.E. Tax amount owed. This amount would be approximately \$5.2M per year in revenues, but they are allowed to add back one-half of that amount on Line 25 of their 1040. That amount would be \$2.6M which reduces A.G.I. (Adjusted Gross Income).

I have run out of ideas today. Please call if there are any questions.


Dorothy J. Bostic
Financial Assistance Specialist
Financial Services Division
Phone: (301) 427-2393
Fax: (301) 589-2686



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N.Y. Blake
1302 112
Hawaii, HI

20 USA

SENATOR DICK ELIASON
ALASKA STATE LEGISLATURE
BOX V (MS 3100)
JUNEAU, ALASKA 99811

ART UNLIMITED AMSTERDAM
POSTBUS 1760 1000 BT AMSTERDAM TEL. 020-851011

2/11/92

DEAR SENATOR ELIASON,

THIS WAS WHAT I FEEL LIKE AFTER HAVING
DONE MY TAXES.

I SUPPORT YOUR ^{YOUR} EFFORTS IN
SPONSORING A RESOLUTION IN THE
SENATE TO URGЕ CONGRESS TO
PASS SENATE BILL # 5-19-34

MAYBE THIS WILL SOLVE THE PROBLEM
OF THE SELF EMPLOYMENT TAX & THE

CCF

Manuel H. Black

February 12, 1992
HC1 Box 8330
Soldotna, AK. 99669

Senator Dick Eliason
State Capital
Juneau, Alaska 99801

Dear Senator Eliason:

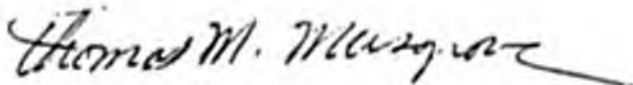
I have been a commercial fisherman in Alaska for the last 14 years and currently have a Capital Construction Fund Account open.

The IRS incorrectly brought the CCF into the tax code in 1985 through Section 1 resulting in double taxation on the funds the sole proprietorship fisherman deposits into a CCF account.

I have just become aware of a resolution in the Alaska State Senate to be sent to Washington D.C. urging the U.S. Congress to support Senate Bill # S-19-34 pertaining to the correction of the Self Employment Tax issue when utilizing the Capital Construction Fund. I am in full support of this resolution.

Thank you for your help in the preparation and support of this resolution.

Sincerely,



Thomas M. Musgrove
Owner/Operator F/V SEAHAWK II

Retail Sales & Marketing

PaineWebber Incorporated
Suite 2400
1201 Third Avenue
Seattle, WA 98101-3070
206-447-2400

February 4, 1992

PaineWebber

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Dear Senator Eliason:

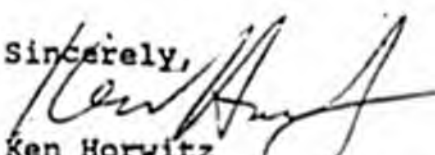
I work for nearly 500 Alaskan Commercial Fishing Families. These families need your support of the pending resolution in the Alaska Legislature urging our Federal Congress to support Senate Bill # S-19-34 pertaining to the correction of the Self Employment issue when utilizing the Capital Construction Fund.

The fishermen are historically loosely organized and often unable to represent themselves properly when they spend most of their time out to sea pursuing their livelihood. They depend upon you for support!

The IRS incorrectly brought the CCF into the tax code in 1985 through Section 1 of the Code which has no provision for anything not susceptible to Self Employment taxation. Since use of the CCF structure eliminates depreciation of the fishermen's boat, self employment tax actually rises later on for the fishermen using the CCF structure. For him to have to pay additional Self Employment tax at the time of his CCF deposit is actually resulting in double taxation. Furthermore, simply by creating a Sub-chapter S corporation, CCF deductions are exempt from Self Employment tax which is further discrimination against the Alaskan individual fisherman operating as a sole proprietor.

Thank you for your help in supporting the resolution you are preparing for the Alaskan legislature. I would also ask that you send a personal wire to the two Alaskan Senators as well.

Sincerely,


Ken Horwitz
Senior Vice-President

Author: Financial Planning For Commercial Fishermen

F/V Lady Kimberly Inc.
P. O. Box 240102
Douglas, Alaska 99824

2/12/92

Dear Senator Eliason,

My husband & I own
and operate 2 Fishing sites in
Kodiak, & also own a 58' limit
seiner. We have a Capital Construction
Fund, which we used to build
the Lady Kimberly. Please continue to
support the resolution in the
Alaska state Legislature #S-19-34.

Thank-you for your interest in
helping us fishermen. Also we
live in Alaska year round & spend
our money here.

Thank-you

Kimberly C. Petersen

Feb 11, 1992

Senator Dick Eliason
State Capitol
Juneau Alaska 99801

Honorable Senator Eliason,

We would like to Thank you
for showing your support for
Senate Bill # S-19-34. We
support you 100%.

~~Being~~ a commercial
fisherman for the last 20
years and recently last 5 years
taking advantage of the
Capital Construction Fund, we
feel we are being taxed twice
since we cannot depreciate
the vessel ^{we} purchased with

Monies used.

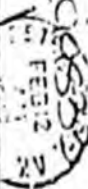
Respectfully yours,

John W. Williams
Brendan Penning

Urgent

BY AIR

Post Office of Juneau Alaska



David Y. Nanney / FV Brown Sugar
Box 387, Haines, Alaska 99827

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Re: Capital Construction Fund
& Self Employment Tax

Dear Senator Eliason:

This letter is in support of your efforts to eliminate the self employment tax requirement on Capital Construction Fund (CCF) deposits.

As Alaska fishermen become more businesslike in their operations, the use of a CCF has increased within the Alaskan fleet. It is a very good program which greatly assists in planning for, and accomplishing, the purchase or improving of a fishing vessel.

Please continue to work for elimination of the self employment tax requirement in the Alaska Legislature and with our congressional delegation.

Sincerely,

David Y. Nanney Jr.
David Y. Nanney, Jr.

Dear Senator Eliason:

Our family has fished in Alaska for 16 years as commercial fishermen. We need your support of the pending Resolution in the Alaska Legislature urging our Federal Congress to support Senate Bill # S-19-34 pertaining to the correction of the Self Employment issue when utilizing the Capital Construction Fund.

As a sole proprietor, we feel discrimination is created, since use of the CCF structure eliminates depreciation of the fisherman's boat, and self employment tax actually rises later on for the fisherman using the CCF structure. For us to have to pay additional Self-Employment tax at the time of our CCF deposit is actually resulting in double taxation. Furthermore, simply by creating a Sub-Chapter S corporation, CCF deductions are exempt from self-employment tax which is further discrimination against the Alaskan individual fisherman operating as a sole proprietor.

Please support our concern. Thank
you!

Sincerely
Leo + Beth Kuremetis
+ family

LEO AND BETH KUREMETIS
BOX 424
KODIAK, ALASKA
99615

February 13, 1992

Senator Dick Eliason
State Senate
PO Box V
Juneau, Alaska 99811.

*Already sent
initial acknowledgment*

Dear Senator Eliason:

My family and I have commercially trolled and longline in the northern SE waters now for almost 17 years. We are asking for your support of the pending resolution in the Alaska Legislature urging our Federal Congress to support Senate Bill # S-19-34, pertaining to the correction of the Self Employment issue when utilizing the Capital Construction Fund.

For us to have to pay an additional Self Employment tax at the time of our CCF deposit is actually resulting in a double taxation. Also by creating a Sub-chapter S corporation, CCF deductions are exempt from Self Employment tax which is further discrimination against the Alaskan individual fisherman operating as a sole proprietor.

Thank you for your help in supporting the resolution your are preparing for the Alaskan legislature, knowing that you yourself are in this business of commercial fishing, that you are able to understand what it is that we are up against. I would also ask that you send a personal wire to the two Alaskan Senators as well.

Sincerely,



Bruce & Laura Smith
Owners and Operators of the FV No-Seeum

FV NO-SEEUM
BRUCE & LAURA SMITH
P.O. BOX 46
GUSTAVUS, ALASKA 99828

March 11, 1985

Senator Dick Eliason
State Senate
P.O. BOX V
Juneau, AK 99811.

Dear Senator Eliason:

I urge you to support #HR-13-63 pertaining to elimination of Self Employment Tax on the Commercial Fisherman's use of Capital Construction Fund.

The Capital Construction fund deduction is not a reduction of revenue to the U.S. Treasury because it is not an elimination of taxes. It is only a reworking of how Commercial Fisherman pay their taxes because they give up all claims to depreciation anyway when they use the CCF to help build a better economy and employ other individuals.

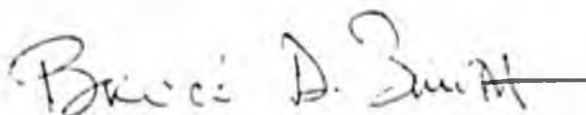
An error was made in 1985 when the CCF was merged with the IRS tax code, it was mistakenly brought in through section 1 which has no provision for any items not subject to Self Employment since forcing us to pay SE tax on the CCF deduction creates a situation whereby you'll pay higher SE at the back end when you don't take a deduction on depreciation.

Not only is this double taxation, but it also causes the "smaller operation" individual to pay higher taxes since Corporate CCFs don't pay Self Employment taxes anyway.

Another very clear example of those folks with the least money feeling this problem the most.

Thank you for your support in voting for #HR-13-63.

Sincerely,



Bruce A. Smith
Commercial Fisherman with a CCF Account.

(From Gustavus)

PUBLIC OPINION MESSAGE

DEAR: SENATOR ELIASON

NAME: MEGAN PASTERNAK
TITLE:
ADDRESS: BOX 830
CITY: SITKA, AK
PHONE: 747-5943
BILL NO:
SUBJECT: CONGRESSIONAL SENATE BILL #1934
MESSAGE: WE ARE IN FAVOR OF YOUR SUPPORT OF SENATE BILL S 1934. PLEASE URGE
OUR CONGRESSICHAL DELEGATION TO PURSUE SUPPORT. ALSO REGARDING YOUR PROPOSAL TO
IMPLEMENT AN ADDITIONAL 1% TAX ON OUR FISHING PROCEEDS, COULD IT BE DESIGNATED
TO PROMOTE ONLY THE FRESH AND FROZEN PRODUCTS, NOT THE CANNED SALMON INDUSTRY?

POHID: 10115052
DATE: 92/02/11
TIME: 11:50:52
LIONAME: SITKA LIO

2/14/92

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Dear Senator Eliason,

I am a commercial fisherman in Alaska (and an Alaskan resident). I feel passage of Senate Bill #5-19-34 pertaining to the correction of the Self Employment issue when utilizing the Capital Construction Fund is vital for the Alaskan Fisherman. I appreciate your support in this matter.

Sincerely,
Dunda Bickford
Box 1657
Valdez, Alaska
99686

Dear Senator Eklund

Feb 13, 1992

My name is James P Odigaard and I own and operate a fishing vessel in Southeast Alaska. I am writing to ~~to~~ you because of your support on the Senate Bill #5-19-34, the bill pertaining to self-employment tax when utilizing the Capital Construction fund.

As a fisherman I feel we are paying enough in taxes along with insurance, updating our vessels for safety and just general repair. The fishing industry isn't working good so having to pay more taxes on our CCF just isn't right. We may as well pay everything up front if we can't get a tax break somewhere.

I am in favor of this bill and in full support of everything you are doing for the fishing industry and fishermen.

James P. Odigaard

Box 162

Pitmeburg, Alaska

99833

Sincerely

J. Odigaard
che

JOSEPH BORDYNOSKI

CERTIFIED PUBLIC ACCOUNTANT
1684 CAMELLIA CIRCLE
WILLITS, CA 95490 • (707) 459-3053

February 18, 1992

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Dear Senator Eliason:

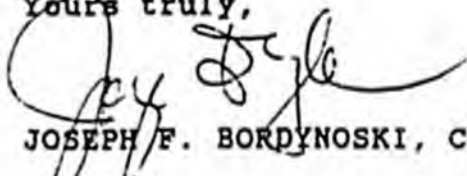
I work for a number of Alaska commercial fishermen and their families. All involved urge the support of the State of Alaska in convincing the Federal Congress to pass Senate Bill #S-19-34 pertaining to the self employment issue of the Capital Construction Fund (CCF).

This bill will stop the double taxation on deposits into one's CCF made by commercial fishermen who are striving to become better equipped. The IRS has, in my opinion, incorrectly assessed the self employment tax on the CCF deposit while requiring that those deposits, when utilized, reduce the basis of the purchase for claiming depreciation. This double taxation was not the intent of Congress - they intended a deferral which aids all commercial fishermen in his quest to help the United States of America reduce its import/export deficit by catching fish and exporting that catch to foreign markets.

Your support is support for the benefits of the entire country.

Thank you for your assistance.

Yours truly,



JOSEPH F. BORDYNOSKI, CPA

JFB:pm

ALVIN & CORA COLPITTS
P.O. BOX 1126
DILLINGHAM, AK 99576

Feb 11-92

Senator Dick Eliason
State Capital
Juneau AK 99801

Dear Senator Eliason

I ask your support of our Federal Congress
on Bill # S-19-34 regarding the Correction of
the Self Employment Issue when utilizing
the Capital Construction Fund.

* → Thank you for supporting the in the Alaskan
Legislature. Would you send a personal note
to the 2 Alaskan Senators.

Al Colpitts

POWELL, SEILER & COMPANY, P.S.

A Professional Service Corporation
Certified Public Accountants

South Bend
912 West Robert Bush Dr.
P.O. Box 435
South Bend, WA 98586
(206) 875-6565

John W. Powell, CPA
Martin F. Seiler, CPA
James A. Seiler, PhD
Nichola A. Goodin

Long Beach
9th So. & Hwy 103
P.O. Box 676
Long Beach, WA 98601
(206) 642-4425

FAX: (206) 875-6568

FAX: (206) 642-4535

February 6, 1992

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Dear Senator Eliason:

We work for many Alaskan Commercial Fishing families. These families need your support of the pending resolution in the Alaska Legislature urging our Federal Congress to support Senate Bill No. S-19-34 pertaining to the correction of the self employment issue when utilizing the Capital Construction Fund.

The fishermen are historically loosely organized and often unable to represent themselves properly when they spend most of their time out to sea pursuing their livelihood. They depend upon you for support!

The I.R.S. incorrectly brought the CCF into the tax code in 1985 through Section 1 of the Code, which has no provision for anything not susceptible to self employment taxation. Since use of the CCF structure eliminates depreciation of the fisherman's boat, self employment tax actually rises later on for the fisherman using the CCF structure. For him to have to pay additional self employment tax at the time of his CCF deposit is actually resulting in double taxation. Furthermore, simply by creating a Subchapter S corporation, CCF deductions are exempt from self employment tax, which is further discrimination against the Alaskan individual fisherman operating as a sole proprietor.

Thank you for your help in supporting the resolution you are preparing for the Alaskan Legislature. We would also ask that you send a personal wire to the two Alaskan Senators as well.

Sincerely,

Powell, Seiler & Co.

POWELL, SEILER & CO., P.S.

Lava

GOODING & EMKEN
CERTIFIED PUBLIC ACCOUNTANTS

242 TAYLOR STREET, PORT TOWNSEND, WASHINGTON 98368
(206) 385-1040

February 6, 1991

Senator Dick Ellason
State Capital
Juneau, AK 99801

Dear Senator:

Today I had the opportunity to read your working draft endorsement of S 1934. I have not seen the actual pending legislation.

Based on this draft, I support your efforts in excluding from self-employment tax, the amounts run through Capital Construction Fund Accounts.

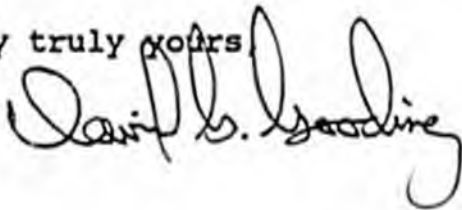
I work with many fishermen operating in Alaska, Washington and California. I have seen many instances where the Capital Construction Fund deduction created a short term deferment of income tax and actually created additional self-employment tax (CCF usage vs. a non-CCF acquisition or repair).

The additional self-employment tax works as a penalty for those individuals using the Capital Construction Program. I do not believe this was the intent of the Merchant Marine Act as amended in 1936.

If there is anything I can do to further support your efforts in reducing self-employment tax on CCF program contributions, please let me know.

I appreciate your efforts in helping fishermen, and creating a more equitable tax structure.

Very truly yours,





JACK ANGOVE
CERTIFIED PUBLIC ACCOUNTANT

409 N. Tower Avenue
Centralia, Washington 98531
Phone (206) 736-2828
FAX # (206) 736-3170

February 5, 1992

Senator Dick Eliason
State Capitol
Juneau, AK 99801

Dear Senator Eliason:

I am pleased to take this opportunity to express my support for action being taken on behalf of many unincorporated fishermen. Having received copy of correspondence to you by Ken Horwitz of PaineWebber, I am very encouraged that progress is being made to eliminate the double tax problem of Self-Employment tax on the use of the Capital Construction Fund.

I am a CPA representing many Commercial Fishermen in the State of Alaska. Many of them have been or will be effected by the double tax. Having their best interest as a concern, I find it expedient to voice my support for legislative action being taken, such as Senate Bill #5-19-34 that would free commercial fishermen from the imposed double tax on the use of the Capital Construction Fund.

I further see action on this necessary in that I believe the intent by Congress in establishing the CCF program was to benefit the fishing industry, not to create an extra tax burden.

I sincerely appreciate your concern and efforts in this matter. Please advise me of supportive action I might take to be of assistance.

Sincerely,

Stephen Angove

Stephen Angove
Certified Public Accountant

CLOTHIER & HEAD.

February 6, 1992

Senator Dick Eliason
State Capital
Juneau, AK 99801

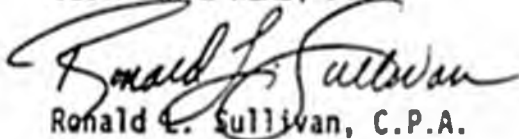
Dear Senator Eliason:

I am a certified public accountant practicing in Seattle, Washington. A number of my clients are commercial fishermen who fish in Alaskan waters. I am writing regarding the pending legislation concerning the capital construction fund and net earnings from self employment.

Fishermen who pay self employment tax on contributions to the capital construction fund will eventually be subject to double taxation since the vessels purchased with CCF funds do not have depreciable bases to deduct against future earnings. I support your effort to enact legislation which will eliminate the self employment tax which results in double taxation for commercial fishermen who currently contribute to the CCF.

Sincerely,

CLOTHIER & HEAD, P.S.



Ronald C. Sullivan, C.P.A.

RLS/em

letter sent 2/25
sent to Resolved

Marvin W. Miller
F/V JEAN M
P.O. BOX 195
Naknek, Alaska
99633

February 15, 1992

Senator Dick Eliason
State Capitol
Juneau, Alaska 99801

Dear Senator Eliason:

I am an Alaska resident commercial salmon fisherman in Bristol Bay, Self Employed, participating in the Capital Construction Fund program. I urge you to support the pending resolution of the Alaska Legislature to urge the Federal Congress for the passage of Senate Bill # G-19-34 to correct the Self Employment Tax issue.

The passage of the afore mentioned bill would correct the error in the 1985 tax code regarding CCF participants that taxes (FICA TAXES) TWICE for the same money in that there is not provision for depreciation.

It does seem that there should be a simpler mechanism to correct these kinds of situations in that they are not earth shaking but rather housekeeping items. Perhaps we have created our own monster and it controls us.

Thank you for your help in this matter and I would be appreciative for your notification of the two Alaskan Senators also.

Sincerely,


Marvin W. Miller

lit. 3+2/05
sit' bksate

Dear Senator Eliason,

2-20-91

I am a full time Alaskan commercial fisherman, and would like to ask for your support of the pending resolution urging our federal congress to pass senate bill # S-1934.

I operate as a sole proprietor, as I own my own boat and have enrolled in the CCF program in order to upgrade that boat. But, I am concerned that I am being forced to pay self-employment taxes twice, or more than twice since I am also a chapter S corporation. This situation discriminates against me, unduly holding me of hard earned money. I hope you can help to right this situation.

Sincerely,
George Kirk
Box 276
Kodiak, AK 99615

"(d) CERTAIN REQUIREMENTS WITH RESPECT TO LONG-TERM CARE FACILITIES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in providing fellowships under the grant, the amount of a fellowship provided for an individual attending the school will not exceed the amount described in subsection (c)(2).

"(e) REQUIREMENT OF APPLICATION.—The Secretary may not award a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated \$5,000,000 for each of the fiscal years 1992 through 1996."

SEC. 317. PRIMARY CARE TRAINING PROGRAM.

Subpart I of part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 312. PRIMARY CARE TRAINING PROGRAM.

"(a) IN GENERAL.—The Secretary may award grants to public or nonprofit private schools of nursing for the establishment or expansion of clinical training sites or training affiliations that shall be administered by such schools.

"(b) APPLICATION.—A school desiring to receive a grant under subsection (a) shall prepare and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary may require.

"(c) USE OF GRANTS.—Amounts received under grants awarded under subsection (a) shall be used to—

"(1) establish clinical training sites or new training affiliations to be run and staffed by the faculty and students of such grantee school, to provide nursing students with training in the delivery of primary care in rural areas or in areas on or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code);

"(2) provide for all aspects of clinical training program development, faculty enhancement and student scholarships; and

"(3) carry out any other activities determined appropriate by the Secretary.

"(d) DESIGN.—The training sites established under subsection (a)(1) shall be designed to provide at least 25 percent of the school's nursing students with a structured clinical experience in primary care.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$5,000,000 for each of the fiscal years 1992 through 1996."

SEC. 318. TECHNICAL AMENDMENTS.

Title VIII is amended—

(1) in section 834(b)(1) (42 U.S.C. 297b(b)(1)) by striking out the period and inserting in lieu thereof a semicolon;

(2) in section 831(a) (42 U.S.C. 298(a)) by striking out "an Advisory" and inserting in lieu thereof "an Advisory"; and

(3) in section 839(a) (42 U.S.C. 298b-6(a)) by striking out "as result of" and inserting in lieu thereof "as a result of".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 319. SAVING PROVISION WITH RESPECT TO CURRENT GRANTS OR CONTRACTS.

Notwithstanding any other provision of law, in the case of any authority for the

provision of a grant or contract that is terminated by any provision of this Act, the Secretary of Health and Human Services shall, notwithstanding the termination of such authority, continue in effect any grant or contract awarded or entered into under the authority that is in effect on the day before the date of enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such grant or contract, or in approving the most recent request made (prior to such date of enactment) for the continuation of such grant or contract, as the case may be.

By Mr. STEVENS:

S. 1934. A bill to exclude deposits into a capital construction fund account under section 607(d) of the Merchant Marine Act from net earnings from self-employment; to the Committee on Finance.

EXCLUSION OF CERTAIN FUNDS DEPOSITED INTO CAPITAL CONSTRUCTION FUND ACCOUNTS

Mr. STEVENS. Mr. President, today I am introducing a bill to permit participants in the Merchant Marine Capital Construction Fund—or CCF—Program to reduce their self-employment income by the amount of contributions to their CCF account. Under current law, an amount equal to the amount deposited for the year into a CCF account reduces taxable income, but not self-employment income. My amendment would reverse revenue ruling 79-413 and the Tax Court ruling in *Eades v. Commissioner*, 79 TC 985—December 8, 1982.

The purpose of the Capital Construction Fund Program, which was created by the Merchant Marine Act in 1936, is to improve the U.S.-flag merchant marine by providing fishermen a mechanism to facilitate accumulation of funds with which to acquire, construct, or reconstruct vessels—including processing and transporting vessels. This is accomplished by permitting any citizen owning or leasing an eligible vessel to enter into an agreement with the Secretary of Commerce to establish a Capital Construction Fund. Taxation of funds deposited into a CCF fund are deferred, in order to facilitate the accumulation of funds required for the acquisition, construction, or reconstruction of the specified vessel(s).

Essentially, this is a form of advance depreciation. Earnings which are placed into the CCF accounts are not subject to the income tax. However, when funds are taken from the CCF accounts to acquire, construct or reconstruct a vessel, the basis of the vessel is reduced to reflect the tax benefit received when the money was originally deposited.

The advance depreciation benefit does not, however, apply to self-employment income. The Internal Revenue Service and the U.S. Tax Court have ruled that although the Merchant Marine Act provided that taxable income should be reduced by the amount deposited into a CCP, no provisions exist for earnings to be reduced

in the determination of self-employment tax. Fishermen using the CCF program are therefore, in a sense, double-taxed with reference to self-employment income. They pay tax on their self-employment income at the time of the CCF deposit, and lose future depreciation deductions against self-employment income due to the basis reductions required by the program.

Despite this apparent double taxation, the Tax Court found it "unlikely that Congress ever considered whether deposits into a capital construction fund established pursuant to Section 607 of the Merchant Marine Act should be subject to the self-employment tax." Certainly, the court is correct as to the law setting up the CCF program because when Congress enacted the Merchant Marine Act in 1936, the self-employment tax did not exist. The court, however, went on to find that subsequent Merchant Marine Act amendments fail to indicate any congressional intent to apply the CCF deferrals to self-employment income.

Mr. President, there continue to be disputes and court actions regarding congressional intent on this matter. I believe the Congress should squarely address this issue and make clear that deposits into CCP accounts will reduce self-employment income. The current situation where individuals must lose future depreciation against their self-employment income in order to utilize the CCF program is inconsistent with that program's purpose. It simply doesn't make sense to provide reduction of taxable income as an incentive to use the CCF program, and at the same time have a disincentive on the self-employment income side. This reduces the benefits CCF can provide to fishermen, which undermines the purposes of the program. I have, in fact, been told by administrators at the Fisheries Service that some fishermen are not using CCF because of the double taxation disincentive.

The bill I am introducing today makes clear that deposits into CCF accounts will reduce—in addition to taxable income—"net earnings from self-employment." In addition, the bill provides for recapturing self-employment taxes for funds which are withdrawn from CCF accounts for nonqualified purposes, that is, purposes other than acquisition, construction, or reconstruction of qualified vessels. Finally, the bill would apply the self-employment tax deferral to all tax cases beginning with tax year 1988, and would provide 1 year from the date of enactment during which time tax refunds pursuant to this legislation could be claimed.

I thank my colleagues for their attention and urge the Finance Committee to act on this legislation.

By Mr. SIMPSON (for himself,
Mr. WALLOP, Mr. BURNS, Mr.

Ted Stevens

United States Senator For Alaska

S. 1934



Contact: Press Office
(202) 224-5209

FOR IMMEDIATE RELEASE
Friday, November 15, 1991

STEVENS BILL WOULD BRING TAX RELIEF FOR FISHERMEN

Fishermen who make deposits into Capital Construction Funds (CCF) would no longer face a form of double taxation under a bill introduced by Senator Ted Stevens.

Under current law, taxation of funds deposited into a CCF are deferred, so that funds can accumulate more quickly in order to buy, construct or reconstruct a vessel.

Taxation of the deposited funds does not occur until the vessel is actually built or refurbished, at which time the permitted depreciation deductions are reduced in the amount of the CCF tax deferral.

This advance depreciation benefit does not, however, apply to self-employment income, according to Stevens. This distinction is important because most Alaska fisherman are self-employed.

The Internal Revenue Service and the U.S. Tax Court have ruled that although the Merchant Marine Act provided that taxable income should be reduced by the amount deposited in a CCF, no provision exists for earnings to be reduced in the determination of self-employment tax.

Stevens' legislation would amend the Merchant Marine Act to make clear that deposits in a CCF could also be applied to reduce self-employment income, thereby reducing the self-employment tax.

"If we are going to defer income tax with deposits to CCFs, we should defer self-employment tax as well. Otherwise, we are defeating the purpose of the program," said Stevens.

Stevens' bill would apply the self-employment tax deferral to all tax cases beginning with tax year 1986, and would provide one year from enactment of the bill for fishermen to apply for refunds.

Similar legislation has been co-sponsored in the House of Representatives by Congressman Don Young.

Alaska Offices: Anchorage: 271-5915 Fairbanks: 456-0261 Juneau: 586-7400
Kenai: 283-5808 Ketchikan: 225-6880