



# Instructions for Form 8902

(Rev. December 2007)

## Alternative Tax on Qualifying Shipping Activities

Section references are to the Internal Revenue Code unless otherwise noted.

### General Instructions

#### Purpose of Form

Form 8902 is used by qualifying vessel operators (defined below) who are making an alternative tax election under section 1354(a) or who have made such an election previously. The form is used to make such an election or report the termination of such an election, to report information relating to such an election, and to compute the alternative tax.

#### Who Must File

Form 8902 must be filed by a qualifying vessel operator (defined below) who is making an alternative tax election under section 1354(a) or who is reporting the termination of such an election. The form must also be used by a qualifying vessel operator who has a valid election in effect to report information pertaining to that election and to compute the alternative tax.

#### How To File

File Form 8902 by attaching it to the corporation's Form 1120 or Form 1120-F.

#### Definitions

**Qualifying vessel operator.** The term "qualifying vessel operator" means any corporation that operates one or more qualifying vessels and meets the shipping activity requirement. See the definitions of these terms below.

**Operating a vessel.** Except as provided in the definition of bareboat charters below, a person is treated as operating any vessel during any period if:

- Such vessel is owned by, or chartered (including a time charter) to, the person, or the person provides services for such vessel pursuant to an operating agreement, and
- Such vessel is in use as a qualifying vessel during such period.

**Qualifying vessel.** A self-propelled (or combination self-propelled and non-self-propelled) U.S. flag vessel of not less than 6,000 deadweight tons used exclusively in the U.S. foreign trade during the period the election is in effect.

**Shipping activity requirement.** A corporation meets this requirement for any tax year only if the following

requirement is met for each of the two preceding tax years: On average during the tax year, at least 25% of the aggregate tonnage of qualifying vessels used by the corporation was owned by such corporation or chartered to such corporation on bareboat charter terms (see definition below).

#### **Special rule for first year of election.**

A corporation meets this requirement for the first tax year for which this election is in effect only if this requirement is met for the preceding tax year.

**Controlled groups.** A corporation that is a member of a controlled group meets this requirement only if such requirement is met when determined by treating all members of such group as one person.

**Bareboat charters.** A person is treated as operating and using a vessel that it has chartered out on bareboat charter terms only if:

- The vessel is (a) temporarily surplus to the person's requirements and the term of the charter does not exceed 3 years or (b) bareboat chartered to a member of a controlled group which includes such person or to an unrelated person who sub-bareboats or time charters the vessel to such a member (including the owner of the vessel) and
- The vessel is used as a qualifying vessel by the person to whom ultimately chartered.

**U.S. foreign trade.** The term "U.S. foreign trade" means the transportation of goods or passengers between a place in the United States and a foreign place or between foreign places.

See section 1355 for more definitions and special rules that apply with respect to the above definitions.

#### Partnerships and Other Pass-Through Entities

In applying these rules to a partner in a partnership:

- Each partner is treated as operating vessels operated by the partnership,
- Each partner is treated as conducting the activities conducted by the partnership, and
- The extent of a partner's ownership, charter, or operating agreement interest in any vessel operated by the partnership will be determined on the basis of the partner's interest in the partnership.

A similar rule applies to other pass-through entities.

### Specific Instructions

#### Part I. Section 1354 Election or Termination

##### Item B

A corporation must make the alternative tax election on or before the due date (including extensions of time to file) of the income tax return for the tax year for which the election is made.

**Election by a member of a controlled group.** An election under section 1354(a) by a member of a controlled group applies to all qualifying vessel operators that are members of such group.

##### Item C

Generally, a revocation of an election under section 1354(a) made:

- On or before the 15th day of the third month of the tax year will be effective on the first day of that tax year.
- After the 15th day of the third month of the tax year will be effective the first day of the following tax year.

However, if the revocation specifies a date for revocation that is on or after the day on which the revocation is made, the revocation will be effective for tax years beginning on and after the date of revocation specified.

##### Item D

An election under section 1354(a) will be terminated effective on and after the date the corporation ceases to be a qualifying vessel operator.

**Election after termination.** If a qualifying vessel operator made the election under section 1354(a) and subsequently revoked the election (Item C) or ceased to be a qualifying vessel operator (Item D), that operator (and any successor operator) is not eligible to make another section 1354(a) election for any tax year before the 5th tax year that begins after the 1st tax year for which the termination is effective, unless the IRS consents to the election.

## Part II. Other Information

### Question E

The term “electing group” means a controlled group of which one or more members is an electing corporation.

The term “controlled group” means any group which would be treated as a single employer under section 52(a) or (b) if sections 52(a)(1) and (2) did not apply.

#### Line G(1). Core qualifying activities

Enter on line G(1) the corporation’s gross income from core qualifying activities. Attach a schedule.

For purposes of this election, the term “core qualifying activities” means activities in operating qualifying vessels in United States foreign trade.

#### Line G(2). Qualifying secondary activities

For purposes of this election, the term “qualifying secondary activities” means secondary activities (defined below) but only to the extent that the gross income derived by the corporation from such activities does not exceed 20% of the gross income derived by the corporation from its core qualifying activities.

**Secondary activities.** The term “secondary activities” means:

- The active management or operation of vessels other than qualifying vessels in the U.S. foreign trade,
- The provision of vessel, barge, container, or cargo-related facilities or services to any person,
- Other activities of the electing corporation and other members of its electing group that are an integral part of its business of operating qualifying vessels in U.S. foreign trade, including:

1. Ownership or operation of barges, containers, chassis, and other equipment that are the complement of, or used in connection with, a qualifying vessel in U.S. foreign trade,
2. The inland haulage of cargo shipped, or to be shipped, on qualifying vessels in U.S. foreign trade, and
3. The provision of terminal, maintenance, repair, logistical, or other vessel, barge, container, or cargo-related services that are an integral part of operating qualifying vessels in U.S. foreign trade.

The term “secondary activities” does not include any core qualifying activities.

**Line G(2)(a). Amount included in 20% limit.** Enter on line G(2)(a) the corporation’s gross income from secondary activities that does not exceed 20% of line G(1).

**Electing groups.** In the case of an electing group, the above rules are applied as if the group were one entity, and the 20% limitation is allocated among the corporations in the group.

**Line G(2)(b). Amount that exceeds the 20% limit.** Enter on line G(2)(b) the corporation’s gross income from secondary activities that exceeds 20% of line G(1).

Attach a schedule showing computations for lines G(2)(a) and (b).

**Example 1.** The corporation has gross income from core qualifying activities of \$20 million and gross income from secondary activities of \$5 million. The corporation enters \$20 million on line G(1), \$4 million (20% of \$20 million) on line G(2)(a), and \$1 million (gross income from secondary activities of \$5 million less the \$4 million limit) on line G(2)(b).

**Example 2.** The same facts as above except the corporation has gross income from secondary activities of \$3 million. The corporation would enter \$3 million on line G(2)(a) and zero on line G(2)(b). Gross income from secondary activities of \$3 million is less than the \$4 million limit.

#### Line G(3). Qualifying incidental activities

For purposes of this election, the term “qualifying incidental activities” means shipping-related activities if:

1. They are incidental to the corporation’s core qualifying activities,
2. They are not qualifying secondary activities, and
3. The gross income derived by the corporation from such activities does not exceed 0.1% of the corporation’s gross income from its core qualifying activities.

**Line G(3)(a). Amount included in the 0.1% limit.** Enter on line G(3)(a) the corporation’s gross income from incidental activities that does not exceed 0.1% of line G(1).

**Electing groups.** In the case of an electing group, the above rules are applied as if the group were one entity, and the 0.1% limitation is allocated among the corporations in the group.

**Line G(3)(b). Amount that exceeds the 0.1% limit.** Enter on line G(3)(b) the corporation’s gross income from incidental activities that exceeds 0.1% of line G(1).

Attach a schedule showing computations for lines G(3)(a) and (b).

#### Line H. Gross income from qualifying shipping activities excluded from gross income on the corporation’s income tax return

Enter on line H the total of lines G(1), G(2)(a), and G(3)(a). Do not include this amount in gross income on the corporation’s Form 1120 or Form 1120-F. Furthermore, do not include on the corporation’s Form 1120 or Form 1120-F any item of loss, deduction, or credit with respect to this line H excluded income.

**Note:** The amounts entered on lines G(2)(b) and G(3)(b) must be included in gross income on the corporation’s Form 1120 or Form 1120-F.

## Part III. Vessel Information

With respect to Parts III and IV, complete a separate column for each qualifying

vessel. If the corporation has more than 4 qualifying vessels, attach separate sheets for Parts III and IV using the same size and format as Form 8902. Also, on line 29, enter the sum of all columns of Part IV, line 28.

#### Line 9. Type of ownership

Indicate in each column the type of ownership for the vessel. Enter “O” for an owned vessel, “L” for a leased vessel, and “CL” for a capitalized lease.

#### Line 10. Type of vessel use

Indicate in each column the type of vessel use. Enter “BB” for bareboat charter out, “TC” for time charter out, and “OI” for operating income.

## Part IV. Notional Shipping Income

#### Line 21. Ownership percentage

Enter the corporation’s percentage of ownership in the vessel. If for any period two or more persons are operators of a qualifying vessel, the notional shipping income from the operation of such vessel for that period must be allocated among the operators on the basis of their respective ownership, charter, and operating agreement interests in the vessel.

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You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 11 hr., 43 min.; **Learning about the law or the form**, 1 hr., 3 min.; **Preparing the form**, 2 hr., 13 min.; **Copying, assembling, and sending the form to the IRS**, 16 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

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