



# FVCCF UPDATE 01

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FEBRUARY 2001

AN INFORMATION RELEASE FOR FISHING VESSEL CAPITAL CONSTRUCTION FUND  
AGREEMENT HOLDERS

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## CAUTION: WITHDRAWALS FOR CERTAIN NETS ARE NO LONGER ALLOWABLE

**Effective December 7, 2000** withdrawals for any nets which are not continuously attached to the vessel will no longer be authorized. These withdrawals will be non-qualified and reported to the Internal Revenue Service as such. The following types of nets and fishing gear have been specifically identified as unallowable:

Seine Nets, Gill Set-Nets, Gill Drift-Nets, Pots, Traps and Longline

Trawl nets have been specifically identified as allowable

As always, in order to qualify as an eligible CCF withdrawal, the expenditure must be an otherwise capitalized cost. Please be aware that some components of the nets or gear (i.e., components of Troll gear) may be an expense item. CCF funds cannot be used to pay for any expense items.

Any other nets or gear must be evaluated on a case by case basis to determine if it is continuously attached to the vessel (except for removal for repairs).

If you have any questions or concerns, please contact Rick VanGorder at (301)713-2393 ext. 195

## NO "TEMPORARY" WITHDRAWALS

CCF regulations provide for only two types of withdrawals from your CCF account: "qualified" or "non-qualified." Qualified withdrawals are for an approved construction, acquisition or reconstruction objective only. Withdrawals made from previously

tax-deferred funds for any other purposes are non-qualified, with no exceptions. Determination as to whether or not a withdrawal is qualified will be made effective at the time of withdrawal. No reimbursement or redeposits of tax deferred funds will be allowed.

## LEGISLATION UPDATE

During this past Congress (106<sup>th</sup>) nine bills were introduced that had proposed changes affecting CCF. While none of these bills passed, we anticipate that some of the proposed ideas will be reintroduced during the current Congress. Some of the ideas proposed include:

- qualified withdrawal treatment for principal payments on a qualified vessel lease
- allowing for a qualified withdrawal of a CCF balance if done in exchange for the retirement of a commercial fishing vessel and related fishing permits
- qualified withdrawal treatment for industry fees authorized in a fishing capacity reduction program
- allowance for a rollover of CCF funds into a person's individual retirement plan
- qualified withdrawal treatment for conservation engineering changes to reduce by-catch, improve selectivity of fishing gear or reduce adverse impacts of fishing gear; improving vessel safety; and acquiring, installing or upgrading equipment to improve collection, reporting or accuracy of fishing data

If you would like to check the status of any particular bill or search for new bills which affect the CCF program, we recommend that you go to the following website: ***Thomas.loc.Gov***

## TAX YEAR 2000 NON-QUALIFIED WITHDRAWAL INTEREST RATE

The interest rate applicable to 2000 non-qualified withdrawals is 6.76%. See specific instructions on tax return reporting of non-qualified withdrawals in IRS Publication 595.

## TERMINATIONS ARE NOT AUTOMATIC

If you have completed all of the requirements of your CCF Agreement and wish to terminate, you must notify our office in writing. Simply closing your CCF depository is not sufficient enough notice of your intent to terminate. Once we receive your termination request, we will review your file to make sure that you have fulfilled all of the requirements of your Agreement and have submitted all of the necessary paperwork. If any documents are missing, or if you have additional requirements of your Agreement remaining, you will be notified. We realize that some of the information requested may be old and not readily available. We will make every attempt to minimize the paperwork burden, however, all of the items that are requested must be provided before we can process your termination request. In addition, please be aware that any balance that remains upon termination will be reported as a non-qualified withdrawal to the Internal Revenue Service.

## TAX BASIS SCHEDULE

All withdrawal letters currently issued request a schedule showing computation of tax basis. As a result of the volume of questions that we receive regarding what information is needed, we have developed a "standard" computation of tax basis form. This schedule should show all vessel costs and all basis reductions to date for withdrawals of tax deferred CCF funds and depreciation. This schedule is necessary in order to verify that there is basis left in each vessel to allow further depreciation or qualified withdrawals. It should show remaining tax basis, if any, as of the end of that particular objective. Please note that copying depreciation schedules from the Agreement holder's tax return is **not** acceptable unless it clearly shows the vessel's original cost and its current

remaining tax basis.

### **GUIDANCE AVAILABLE TO HELP IN DETERMINING A VESSELS NET AND GROSS TONNAGE**

We now have a handout from the Coast Guard that provides the formula used in determining Net and Gross Vessel tonnage. Please keep in mind that to be eligible for the CCF program, a vessel must be at least 2 net tons. If the vessel is 5 net tons or greater, it must be Coast Guard Documented for "Fishery". If you would like to receive a copy of this handout, please contact Angie Campbell at (301)713-2393 ext. 204.

### **1999 REPORTS ARE NOW DELINQUENT**

If tax year **1999** NOAA Form 34-82 and its supporting tax return are not received by May 1, 2001, we will report that case to the Internal Revenue Service as a non-reporter. Also, please note that **2000 reports** are due 30 days after the due date of your 2000 tax return, including extensions.

### **REPORTING CCF INFORMATION FROM PASS-THROUGH ENTITIES**

Per IRS instructions, the deduction for these entities earnings from fishing operations that are deposited into a CCF account are to be separately stated on Schedule K and allocated to the partners, shareholders or members on Schedule K-1. This requirement has caused some confusion in reporting to NOAA Fisheries because we must distinguish whether cash was deposited in the individual agreement holder's CCF depository, or if the deposit was made in the pass-through entity's depository under its own agreement.

When CCF deposit activity is shown on a Schedule K-1, the individual taxpayer receiving the K-1 reduces taxable income on Form 1040 at page 2, line 39 for the deposit made by the pass-through entity in addition to the adjustment made for his/her own agreement activity.

For each agreement, we must reconcile each year's tax return to NOAA Form 34-82. You must furnish us with additional information when the two do not agree. Each NOAA Form 34-82 should only display transactions (including transfers) that affect its own depository. Any other CCF reduction of taxable income for activity of a pass-through entity should be supported by a schedule attached to the tax return and to NOAA Form 34-82. Also, please furnish a copy of each Schedule K-1 showing CCF activity and any CCF related adjustments made between the K-1 and your tax return.

### **DEPOSITORY BALANCES MUST NOT EXCEED OPEN SCHEDULE B OBJECTIVES**

We occasionally become aware that the depository balance for some agreements exceed "open" (both current and future) Schedule B objectives. The portion of the balance that exceeds "open" Schedule B objectives may be treated as a non-qualified withdrawal.

Please review your agreement objectives and bring them up to date. "Open" Schedule B objectives exclude Schedule B vessel cost when there is no remaining tax basis (for mortgage payments) and planned objectives for which the projected completion date has passed without activity. Sometimes the cost of planned objectives is underestimated on the Schedule B, as well, especially for reconstructions.

Occasionally we find an agreement with a depository balance and no "open" objectives on file. If this situation cannot be cured, the agreement must be terminated. The remaining balance is treated as a non-qualified withdrawal.

Please be aware that any balance of tax deferred funds that remain upon termination is a non-qualified withdrawal. Proper planning is required before making deposits to your CCF depository. This includes the annual decision regarding whether or not to withdraw current year investment earnings and pay the applicable tax due.

### **TRANSFERS TO CLOSELY HELD CORPORATIONS**

Transfers of **depository funds**: Special permission is needed prior to each transfer of funds from an individual's CCF depository to that agreement holder's closely held corporation's depository. Each transfer must meet all of

the requirements of IRC Section 351. The corporation must have its own agreement and accept all terms and conditions of the agreement under which the original deposit of funds was made. In addition, once the transfer is approved a physical deposit of these funds is required.

Transfers of **agreement vessels**: NMFS must be notified in writing within 30 days of any transfer of an agreement vessel, including to a closely held corporation. Notification should include the vessel name, Schedule A page number and the date sold. All affected Agreements must be amended, accordingly.

### **NO INVESTMENT IN NASDAQ STOCKS ALLOWED**

The Merchant Marine Act Section 607 specifies that “no more than 60 percent of the assets of a CCF fund may be invested in the stock of domestic corporations which are listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange”. Currently, we do not believe that NASDAQ meets the definition of a registered national securities exchange. If further information becomes available that identifies NASDAQ as a registered national securities exchange, we would allow investments in NASDAQ stocks. Any CCF funds which are currently invested in NASDAQ stocks or any other investments not specified as allowable in our Investment Guidelines, will be treated as a non-qualified withdrawal and may result in termination of your Agreement.

### **DETERMINING WHO YOUR REGIONAL REPRESENTATIVE IS**

All case servicing is assigned to the CCF staff based upon the CCF Agreement number. In order to determine who you should contact regarding your CCF account, you need to refer to your Agreement number. The last number of your case number determines if it is an “even” or “odd” numbered case (ie. CCF-A-00001 would be an “odd” numbered case in the Alaska Region). Please refer to the enclosed CCF staff directory to determine who you should contact for assistance with your CCF Agreement.

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