



## Qualifying Shipping Activities for Alternative Tonnage Tax

A recent IRS memorandum has stated that inland haulage and activities performed while a vessel is at a port terminal are qualifying secondary activities—and not core qualifying activities—for purposes of the tonnage tax.

The tonnage tax was enacted as part of the American Jobs Creation Act of 2004. It is an elective tax regime for corporations that allows them to be taxed on the basis of "notional shipping income." Notional shipping income is an amount based on a formula that is derived from the net tonnage of the vessels that are used for qualifying shipping activities. Taxpayers that elect the application of the tonnage tax regime pay tax based on their notional shipping income, and receive a corresponding exclusion from the corporate income tax for certain income attributable to their qualifying shipping activities.

The exclusion from gross income applies only to income from qualifying shipping activities. Qualifying shipping activities mean core qualifying activities, qualifying secondary activities, and qualifying incidental activities. The exclusion from gross income applies to income from qualifying shipping activities in the following manner: (a) core qualifying activities are 100 percent excluded from gross income; (b) qualifying secondary activities are excluded to the extent of 20 percent of the gross income derived from the taxpayer's core qualifying activities; and (c) qualifying incidental activities are excluded from gross income to the extent of 0.1 percent of the gross income derived from the taxpayer's core qualifying activities.

Because the income derived from performing qualifying secondary activities cannot exceed 20 percent of the gross income derived from core qualifying activities, it is necessary to determine which activities are "core" and which are "secondary."

The IRS noted that core qualifying activities comprise the operation of qualifying vessels in United States foreign trade, namely, consisting of the activities in transporting goods or passengers between a place in the United States and a foreign place, or between foreign places.

The IRS also held that secondary activities comprise subsidiary or ancillary activities other than the core transportation of goods or passengers; other than on qualifying vessels; or other than during the transportation between a place in the United States and a foreign place, or between foreign places. Thus, even when secondary activities are an integral part of the business of operating qualifying vessels in United States foreign trade, they are distinct from the core transportation of goods or passengers in United States foreign trade.

— [Alex P. Trostorff](#)

*Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact:*

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