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January 2015

RE: Shipyard MARAD CCF Program Use

The Congressional sponsors of the Merchant Marine Act of 1970 Act believed that its CCF provisions would "*do more than anything else in the bill to help the ship operating, and therefore the shipbuilding industry, to build ships in United States yards that are so urgently needed to modernize our United States merchant marine.*" S. Rep. No. 91-1080, at 43 (1970)

1. Background: The CCF Program.

The Merchant Marine Act of 1970 authorized a Capital Construction Fund tax deferral program (the CCF Program) administered by the Maritime Administration (MARAD) through contract agreements with U.S. citizen vessel owners.

The CCF Program allows a ship owner or operator, or a shipyard, to defer payment of federal (and in most instances state) income taxes on the profits from vessel operations or vessel sales and vessel leasing, and on associated investment income. The CCF Program provides what is in effect an interest free loan of the money that would otherwise be paid to settle current taxes . . . in exchange for the promise to use this money for the construction of vessels for operation in . . . U.S. foreign, U.S. non-contiguous, Great Lakes, U.S. offshore, and since 2007 U.S. "short sea" services.

MARAD opened the CCF Program for shipyard use in 1988 with the award of a MARAD CCF Program contract to National Steel & Shipbuilding Company (NASSCO). NASSCO is a CCF Program participant today with a significant CCF Program working capital fund of tax deferred monies for use by NASSCO in the construction of vessels for qualifying trades.

2. How it works.

The CCF tax deferral is accomplished under the terms of a CCF Program contract (CCF Agreement) between MARAD and the U.S. citizen shipyard participant (Participant). MARAD will approve a list of vessels that are under construction or are contemplated for construction (Agreement Vessels and Qualified Agreement Vessels) and the U.S. government will agree to defer the tax on the profit of the sale or lease of the approved vessels. The shipyard will then be able to use this money as working capital for the construction of Qualified Agreement Vessels for the shipyard's account, or to provide customer construction period financing, or for shipyard equity for vessel leasing of new Qualified Agreement Vessels for service in qualifying trades.

When a Qualified Agreement Vessel is built with CCF tax deferred money and is sold, the shipyard's cost basis will be reduced by the measure of the CCF tax deferred money used, and the shipyard's profit will be increased by this amount, but the shipyard's tax on this this increased profit can be deferred by the deposit of this profit under the shipyard CCF Agreement.

3. Your Shipyard.

Under the CCF Program the profits from your shipyard's sale of almost any of the vessels you build for any U.S. citizen customer, for any U.S. service in any domestic or offshore trade can be tax sheltered under a MARAD CCF Agreement, by your entering into a CCF Agreement with MARAD and writing a check to a Depository that you have selected, in the amount you wish to reduce your current taxable income, and your promising MARAD that you will use that deposit, and the income on that deposit, to build a vessel for use in the offshore services or other "qualifying" trade. So, for example, the profits from your established Mississippi River push boat sales business can be deposited and used to finance a new line of business in offshore services vessels.

Instead of writing a check to the U.S. Treasury for $4 million on October 15, 2014, you will be writing a check for $10 million to your Depository, $4 million of which will in effect be an interest free loan from the U.S. Treasury. And you will be able to use this $10 million, and the tax deferred earnings on the $10 million, to build a new OSV for your own or a customer account.

When the new OSV is sold, your profit will be increased by the measure of the tax deferred monies withdrawn from the Depository. However, you will be able to shelter this entire vessel sale profit by making a CCF deposit of these monies that will then be added to this working capital fund. And, of course, the working capital account can be used to provide customer financing or as equity for a vessel leasing transaction.

4. Problems & Solutions.

There are three Program problem subject matters that require shipyard evaluations. The first two are MARAD regulations deficiencies that appear subject to an easy cure in MARAD 2015 rulemaking proceedings. We believe that the third problem, the Title 26, section 56(c)(2) classification of CCF Program deposits and portfolio earnings as AMT preference items for corporations, can be successfully addressed as a part of Department of Transportation/MARAD America's Marine Highways package of legislative proposals.

5. Conclusions.

The MARAD CCF Program can be employed to enable Gulf of Mexico shipyards to achieve added flexibility in their planning and operations, and to enhance profitability. I would be pleased to speak with you to explore the availability and details of these Program benefits for your shipyard operations.