

Fishing Information Newsletter

News You Can Use from the Internal Revenue Service
New England District

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Message from the Coordinator

The February issue of the FIN is devoted to problem prevention — both yours and ours. We do share a common goal, looking for ways to avoid tax problems up front, rather than fixing them after the fact. To that end, I've included Tax Time Reminders, as well as Frequently Asked Questions (FAQs). Both articles are intended to prevent tax return processing problems further down the road.

Although this newsletter was originally designed for those in the Fishing Industry, many of our 200 subscribers now include professional tax preparers. How fortunate we are to have this triad — the IRS, the Industry and tax professionals — contributing to the newsletter. This sharing of experiences has been extremely helpful, as we all work to identify and communicate potential tax problems to be avoided.

If your tax preparer is not a subscriber, encourage him/her to sign up using the contact numbers shown below. In the meantime, why not pass along a copy of the newsletter to your tax professional to use as a handy reference during the tax season.

Please continue to spread the word about the FIN and ask your coworkers, wholesalers, associations and accountants to drop us an e-mail inquiry. I'd be glad to cover their suggested topics... so let me know!

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REMEMBER—DON'T BE "SELFISH"
PLEASE SHARE OUR E-MAIL ADDRESSES:

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Frequently Asked Questions ~ FAQs

1. As a fisherman, can I claim a credit or refund of excise taxes on fuels?

A fisherman may be eligible to claim a credit or refund of excise tax paid on **fuel** used in certain **boats**.

Boats

Commercial Fishing Boats - Boats used in commercial fishing include only watercraft used in taking, catching, processing, or transporting fish, shellfish, or other aquatic life for commercial purposes, such as selling or processing the catch, on a specific trip basis. They include boats used in both fresh and salt-water fishing.

Not included are boats used for both sport fishing and commercial fishing on the same trip. Fuel used in aircraft to locate fish is not fuel used in commercial fishing.

Fuel

Gasoline - A credit or refund may be allowed for gasoline used for supplies for vessels/boats used in commercial fishing.

Special Motor Fuels - A credit or refund may be allowed for special motor fuels used for supplies for vessels and boats used in commercial fishing.

Special motor fuels generally include any liquid other than gasoline, diesel fuel, kerosene, gas oil, or fuel oil.

Compressed Natural Gas (CNG) - A credit or refund may be allowed for CNG used for supplies for vessels and boats used in commercial fishing.

Diesel Fuel – A credit or refund may be allowed, depending on the type of diesel fuel used:

Undyed - A credit or refund is allowed for tax paid on undyed diesel fuel that is used for a nontaxable purpose.

Dyed - No credit or refund is allowable for the use of dyed diesel fuel since this fuel is purchased tax-free.

2. What is the status of the proposal to expand income averaging to include fishermen?

The income averaging provision for a fisherman was one of many proposed tax changes included in H.R. 2488, *The Taxpayer Refund and Relief Act of 1999*, which was vetoed by the President on 9/23/99.

3. I participated in the Northeast Fisheries Disaster Assistance Program and received monies for lost fishing time. I understand this money will be shared with my crewmembers in the same manner as if we had fished. Will this affect their independent contractor status?

The relief provisions do not affect a crew's status as either employees or independent contractors. Vessel owners receive additional funds if they have crews, and are expected to distribute the funds to their crews, in the same manner they would have distributed the funds from the sale of fish.

4. What is the correct Principal Business Activity (PBA) code to use on my tax return? What would happen if it were incorrect?

The correct code for the fishing industry is 114110. This code should be used regardless of the type of business return filed (Form 1040, *Individual Income Tax Return*, Form 1120, *Corporation Income Tax Return*, Form 1120S, *Income Tax Return for an S Corporation*, or Form 1065, *Partnership Return of Income*).

If you file a Schedule C, *Sole Proprietorship*, which is your primary source of income, and enter an incorrect code, you may be assessed an estimated tax penalty. Only fish and farming industries are permitted to file individual returns without estimated tax payments. (See questions below for further information).

5. More than two-thirds of my gross income in 1999 was from fishing, and I did not pay my estimated tax by January 18, 2000. Will I be assessed an estimated tax penalty?

No, as long as you file Form 1040 by March 1, 2000 and pay all tax due.

6. I file a Form 1120S, (S Corporation) for my fishing business and report the profit on my Form 1040. Each year I'm assessed an estimated tax penalty, even though I pay the full tax due and file by March 1st. Am I doing something wrong?

A common error when reporting Form 1120S or 1065 income is failure to complete line 41 of Schedule E (Form 1040). If you complete this line, the IRS then knows the gross income reported from the Partnership or S Corporation is from fishing.

Tax Time Reminders

- Remember to report all "fishing patronage dividends" reported to you on Form 1099-PATR, *Taxable Distribution Received from Cooperatives*, as gross receipts on your business schedule. These dividends are subject to self-employment tax.
- If you have crewmembers and pay them a percentage of the catch or a fish buyer and purchase fish directly from the fishermen and pay in cash, you must file Form 1099MISC, *Miscellaneous Income*, with the IRS by February 28, 2000. (Please Note: You should have provided the recipient their copy of Form 1099 MISC by January 31, 2000).
- If you are a crew member/sternman and were paid a percentage of the catch, you have received a 1099MISC for the amounts paid for the services rendered. (Please Note: This income is reported as self-employment income and shown on Schedule C, *Profit or Loss from Business*, or C-EZ, *Profit or Loss from Business – Short Form*. DO NOT report this income as wages).
- The amount of a fuel tax credit you received on your 1998 tax return must be reported as income on your 1999 return.

TAS Responds to an SOS

Jacques, a scalloper, filed his tax return on time, attaching Form 2210-F, *Underpayment of Estimated Tax by Farmers and Fishermen*. He believed he didn't owe a penalty because he met the "gross income test" for his estimated payments.

The IRS processed the return and sent Jacques a penalty notice for underpaying his estimated tax. He immediately wrote the IRS and explained why he felt the penalty was in error. Six weeks later with no response from the IRS, but a second penalty notice in his mailbox, he called 1-800-829-1040 and was referred to the Taxpayer Advocate Service (TAS).

If you contacted the IRS about a problem and it remains unresolved, or if you are experiencing a hardship because of IRS treatment or delay, contact the Taxpayer Advocate Service - the voice at the IRS who works independently to assist you. Call toll-free 1-877-777-4778.