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TITLE 26--INTERNAL REVENUE CODE

Subtitle I--Trust Fund Code

CHAPTER 98--TRUST FUND CODE

Subchapter A--Establishment of Trust Funds

Sec. 9509. Oil Spill Liability Trust Fund

(a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the "Oil Spill Liability Trust Fund", consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section or section 9602(b).

(b) Transfers to Trust Fund

There are hereby appropriated to the Oil Spill Liability Trust Fund amounts equivalent to--

(1) taxes received in the Treasury under section 4611 (relating to environmental tax on petroleum) to the extent attributable to the Oil Spill Liability Trust Fund financing rate under section 4611(c),

(2) amounts recovered under the Oil Pollution Act of 1990 for damages to natural resources which are required to be deposited in the Fund under section 1006(f) of such Act,

(3) amounts recovered by such Trust Fund under section 1015 of such Act,

(4) amounts required to be transferred by such Act from the revolving fund established under section 311(k) of the Federal Water Pollution Control Act,

(5) amounts required to be transferred by the Oil Pollution Act of 1990 from the Deepwater Port Liability Fund established under section 18(f) of the Deepwater Port Act of 1974,

(6) amounts required to be transferred by the Oil Pollution Act of 1990 from the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978,

(7) amounts required to be transferred by the Oil Pollution Act of 1990 from the Trans-Alaska Pipeline Liability Fund established under section 204 of the Trans-Alaska Pipeline Authorization Act, and

(8) any penalty paid pursuant to section 311 of the Federal Water Pollution Control Act, section 309(c) of such Act (as a result of violations of such section 311), the Deepwater Port Act of 1974, or section 207 of the Trans-Alaska Pipeline Authorization Act.

(c) Expenditures

(1) Expenditure purposes

Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts or section 6002(b) of the Oil Pollution Act of 1990, only for purposes of making

expenditures--

(A) for the payment of removal costs and other costs, expenses, claims, and damages referred to in section 1012 of such Act,

(B) to carry out sections 5 and 7 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution,

(C) for the payment of liabilities incurred by the revolving fund established by section 311(k) of the Federal Water Pollution Control Act,

(D) to carry out subsections (b), (c), (d), (j), and (l) of section 311 of the Federal Water Pollution Control Act with respect to prevention, removal, and enforcement related to oil discharges (as defined in such section),

(E) for the payment of liabilities incurred by the Deepwater Port Liability Fund, and

(F) for the payment of liabilities incurred by the Offshore Oil Pollution Compensation Fund.

(2) Limitations on expenditures

(A) \$1,000,000,000 per incident, etc.

The maximum amount which may be paid from the Oil Spill Liability Trust Fund with respect to--

(i) any single incident shall not exceed \$1,000,000,000, and

(ii) natural resource damage assessments and claims in connection with any single incident shall not exceed \$500,000,000.

(B) \$30,000,000 minimum balance

Except in the case of payments of removal costs, a payment may be made from such Trust Fund only if the amount in such Trust Fund after such payment will not be less than \$30,000,000.

(d) Authority to borrow

(1) In general

There are authorized to be appropriated to the Oil Spill Liability Trust Fund, as repayable advances, such sums as may be necessary to carry out the purposes of such Trust Fund.

(2) Limitation on amount outstanding

The maximum aggregate amount of repayable advances to the Oil Spill Liability Trust Fund which is outstanding at any one time shall not exceed \$1,000,000,000.

(3) Repayment of advances

(A) In general

Advances made to the Oil Spill Liability Trust Fund shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in such Fund.

(B) Final repayment

No advance shall be made to the Oil Spill Liability Trust Fund after December 31, 1994, and all advances to such Fund

shall be repaid on or before such date.

(C) Rate of interest

Interest on advances made pursuant to this subsection shall be--

- (i) at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding, and
- (ii) compounded annually.

(e) Liability of the United States limited to amount in Trust Fund

(1) General rule

Any claim filed against the Oil Spill Liability Trust Fund may be paid only out of such Trust Fund.

(2) Coordination with other provisions

Nothing in the Oil Pollution Act of 1990 (or in any amendment made by such Act) shall authorize the payment by the United States Government of any amount with respect to any such claim out of any source other than the Oil Spill Liability Trust Fund.

(3) Order in which unpaid claims are to be paid

If at any time the Oil Spill Liability Trust Fund has insufficient funds (or is unable by reason of subsection (c)(2)) to pay all of the claims out of such Trust Fund at such time, such claims shall, to the extent permitted under paragraph (1) and such subsection, be paid in full in the order in which they were finally determined.

(f) References to Oil Pollution Act of 1990

Any reference in this section to the Oil Pollution Act of 1990 or any other Act referred to in a subparagraph of subsection (c)(1) shall be treated as a reference to such Act as in effect on the date of the enactment of this subsection.

(Added Pub. L. 99-509, title VIII, Sec. 8033(a), Oct. 21, 1986, 100 Stat. 1959, Sec. 9507; renumbered Sec. 9509, Pub. L. 99-509, title VIII, Sec. 8033(c)(2)(B), Oct. 21, 1986, 100 Stat. 1962; amended Pub. L. 100-647, title I, Sec. 1018(u)(20), Nov. 10, 1988, 102 Stat. 3591; Pub. L. 101-239, title VII, Secs. 7505(d)(2), 7811(m)(3), Dec. 19, 1989, 103 Stat. 2364, 2412; Pub. L. 101-380, title IX, Sec. 9001, Aug. 18, 1990, 104 Stat. 573.)

References in Text

The Oil Pollution Act of 1990, referred to in subsecs. (b)(2), (3), (5)-(7), (c)(1), (e)(2), and (f), is Pub. L. 101-380, Aug. 18, 1990, 104 Stat. 484, which is classified principally to chapter 40 (Sec. 2701 et seq.) of Title 33, Navigation and Navigable Waters. Sections 1006, 1012, 1015, and 6002 of the Act are classified to sections 2706, 2712, 2715, and 2752 of Title 33, respectively. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 33 and Tables.

Section 311 of the Federal Water Pollution Control Act, referred to

in subsecs. (b)(4), (8) and (c)(1)(C), (D), is classified to section 1321 of Title 33. Subsec. (d) of section 311, which related to maritime disaster discharges, was amended generally by Pub. L. 101-380, title IV, Sec. 4201(b), Aug. 18, 1990, 104 Stat. 525. Subsec. (k) of section 311 was repealed by Pub. L. 101-380, title II, Sec. 2002(b)(2), Aug. 18, 1990, 104 Stat. 507.

The Deepwater Port Act of 1974, referred to in subsec. (b)(5), (8), is Pub. L. 93-627, Jan. 3, 1975, 88 Stat. 2126, as amended, which is classified generally to chapter 29 (Sec. 1501 et seq.) of Title 33. Section 18 of the Act was classified to section 1517 of Title 33 prior to its repeal by Pub. L. 101-380, title II, Sec. 2003(a)(2), Aug. 18, 1990, 104 Stat. 507. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 33 and Tables.

Section 302 of the Outer Continental Shelf Lands Act Amendments of 1978, referred to in subsec. (b)(6), was classified to section 1812 of Title 43, Public Lands, prior to its repeal by Pub. L. 101-380, title II, Sec. 2004, Aug. 18, 1990, 104 Stat. 507.

Sections 204 and 207 of the Trans-Alaska Pipeline Authorization Act, referred to in subsec. (b)(7), (8), are classified to sections 1653 and 1656, respectively, of Title 43.

Section 309(c) of the Federal Water Pollution Control Act, referred to in subsec. (b)(8), is classified to section 1319(c) of Title 33, Navigation and Navigable Waters.

Sections 5 and 7 of the Intervention on the High Seas Act, referred to in subsec. (c)(1)(B), are classified to sections 1474 and 1476, respectively, of Title 33.

The date of the enactment of this subsection, referred to in subsec. (f), probably means the date of enactment of Pub. L. 101-380, which was approved Aug. 18, 1990, and which amended subsec. (f) generally.

Amendments

1990--Subsec. (b)(2) to (8). Pub. L. 101-380, Sec. 9001(a), added pars. (2) to (8) and struck out former pars. (2) to (5) which read as follows:

“(2) amounts recovered, collected, or received under subtitle A of the Comprehensive Oil Pollution Liability and Compensation Act,

“(3) amounts remaining (on January 1, 1990) in the Deepwater Port Liability Fund established by section 18(f) of the Deepwater Port Act of 1974,

“(4) amounts remaining (on such date) in the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978, and

“(5) amounts credited to such trust fund under section 311(s) of the Federal Water Pollution Control Act.”

Subsec. (c)(1). Pub. L. 101-380, Sec. 9001(b), amended par. (1) generally, substituting “Expenditure purposes” for “General expenditure purposes” in heading and substituting current text consisting of subpars. (A) to (F) for former text consisting of general provisions in subpar. (A) and special rules in subpar. (B).

Subsec. (c)(2)(A). Pub. L. 101-380, Sec. 9001(c), substituted “\$1,000,000,000” for “\$500,000,000” in heading and in cl. (i), and substituted “\$500,000,000” for “\$250,000,000” in cl. (ii).

Subsec. (c)(2)(B). Pub. L. 101-380, Sec. 9001(e)(2), substituted “payments of removal costs” for “payments described in paragraph (1)(A)(i)”.

Subsec. (d)(2). Pub. L. 101-380, Sec. 9001(d)(1), substituted “\$1,000,000,000” for “\$500,000,000”.

Subsec. (d)(3)(B). Pub. L. 101-380, Sec. 9001(d)(2), substituted “December 31, 1994” for “December 31, 1991”.

Subsec. (e)(2). Pub. L. 101-380, Sec. 9001(e)(1), substituted “Oil Pollution Act of 1990” for “Comprehensive Oil Pollution Liability and Compensation Act”.

Subsec. (f). Pub. L. 101-380, Sec. 9001(e)(3), substituted ``References to Oil Pollution Act of 1990'' for ``References to Comprehensive Oil Pollution Liability and Compensation Act'' in heading and amended text generally. Prior to amendment, text read as follows: ``For purposes of this section, references to the Comprehensive Oil Pollution Liability and Compensation Act shall be treated as references to any law enacted before December 31, 1990, which is substantially identical to subtitle E of title VI, or subtitle D of title VIII, of H.R. 5300 of the 99th Congress as passed by the House of Representatives.''

1989--Subsec. (b)(3). Pub. L. 101-239, Sec. 7811(m)(3), made technical correction to directory language of Pub. L. 100-647, see 1988 Amendment note below.

Pub. L. 101-239, Sec. 7505(d)(2)(B), substituted `` (on January 1, 1990)'' for `` (on the 1st day the Oil Spill Liability Trust Fund financing rate under section 4611(c) applies)''.

Subsec. (c)(1)(A). Pub. L. 101-239, Sec. 7505(d)(2)(C), which directed amendment of subsec. (c)(1) by striking the last sentence, was executed by striking out the last sentence of subsec. (c)(1)(A), as the probable intent of Congress. Such sentence read as follows: ``For purposes of this subparagraph, references to the Comprehensive Oil Pollution Liability and Compensation Act shall be treated as references to qualified authorizing legislation (as defined in section 4611).''

Subsec. (f). Pub. L. 101-239, Sec. 7505(d)(2)(A), added subsec. (f).

1988--Subsec. (b)(3). Pub. L. 100-647, as amended by Pub. L. 101-239, Sec. 7811(m)(3), substituted ``Deepwater'' for ``Deep Water'' wherever appearing.

Effective Date of 1990 Amendment

Amendment by Pub. L. 101-380 applicable to incidents occurring after Aug. 18, 1990, see section 1020 of Pub. L. 101-380, set out as an Effective Date note under section 2701 of Title 33, Navigation and Navigable Waters.

Effective Date of 1989 Amendment

Amendment by section 7811(m)(3) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

Effective Date of 1988 Amendment

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Effective Date

Section 8033(c)(1) of Pub. L. 99-509 provided that: ``The amendments made by this section [enacting this section] shall take effect on the commencement date (as defined in section 4611 of the Internal Revenue Code of 1954 [now 1986], as amended by this part).''

[For purposes of section 8033(c) of Pub. L. 99-509, set out as notes above and below, the commencement date is Jan. 1, 1990, see section 7505(d)(1) of Pub. L. 101-239, set out as an Effective Date of 1986 Amendment note under section 4611 of this title.]

Report on Oil Spill Liability Trust Fund

Pub. L. 104-66, title I, Sec. 1122(a), Dec. 21, 1995, 109 Stat. 724,
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provided that: ``The quarterly report regarding the Oil Spill Liability Trust Fund required to be submitted to the House and Senate Committees on Appropriations under House Report 101-892, accompanying the appropriations for the Coast Guard in the Department of Transportation and Related Agencies Appropriations Act, 1991 [Pub. L. 101-516], shall be submitted not later than 30 days after the end of the fiscal year in which this Act is enacted and annually thereafter.''

[House Report 101-892, 101st Congress, 2d Session, provided that: ``The conferees direct the Coast Guard to submit quarterly reports to the House and Senate Committee on Appropriations detailing and summarizing all transfers to and expenditures from the oil spill liability trust fund. Each report shall account for each transfer to and expenditure from the fund as authorized by Section 9509 of the Internal Revenue Code of 1986, as amended, and Sections 5003 and 5004 of the Oil Pollution Act of 1990 (Public Law 101-380) [33 U.S.C. 2733, 2734]. The report shall also show amounts collectable under Section 9509(b)(2), (3), and (8) of the Internal Revenue Code of 1986. For those authorized expenditures subject to limitations, the report shall so indicate. The Coast Guard shall confer with the House and Senate Committees on Appropriations as to the format for these reports.'']

Deepwater Port Liability Fund

Section 2003(b) of Pub. L. 101-380 provided that: ``Any amounts remaining in the Deepwater Port Liability Fund established under section 18(f) of the Deepwater Port Act of 1974 (33 U.S.C. [former] 1517(f)) shall be deposited in the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509). The Oil Spill Liability Trust Fund shall assume all liability incurred by the Deepwater Port Liability Fund.''

Offshore Oil Pollution Compensation Fund

Section 2004 of Pub. L. 101-380 provided that: ``Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1811-1824) is repealed. Any amounts remaining in the Offshore Oil Pollution Compensation Fund established under section 302 of that title (43 U.S.C. 1812) shall be deposited in the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509). The Oil Spill Liability Trust Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund.''

Deposit of Certain Penalties Into Oil Spill Liability Trust Fund

Section 4304 of Pub. L. 101-380 provided that: ``Penalties paid pursuant to section 311 of the Federal Water Pollution Control Act [33 U.S.C. 1321], section 309(c) of that Act [33 U.S.C. 1319(c)], as a result of violations of section 311 of that Act, and the Deepwater Port Act of 1974 [33 U.S.C. 1501 et seq.], shall be deposited in the Oil Spill Liability Trust Fund created under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).''

Coordination With Superfund Reauthorization

Section 8033(c)(2) of Pub. L. 99-509 provided that: ``If the Superfund Amendments and Reauthorization Act of 1986 is enacted--

``(A) subsection (a) of this section shall be applied by substituting `section 9508' for `section 9506',

``(B) section 9507 of the Internal Revenue Code of 1954 [now 1986], as added by this section, is hereby redesignated as section 9509 of such Code, and

``(C) in lieu of the amendment made by subsection (b), the table of sections for subchapter A of chapter 98 of such Code is amended by adding after the item relating to section 9508 the following new

item:
Sec. 9509. Oil Spill Liability Trust Fund.' ''

Section Referred to in Other Sections

This section is referred to in title 33 sections 1321, 2701, 2718.