

Q&A from [Fishing Tax Presentation #2](#) on: deductions, depreciation, S-Corp action items, capital construction fund (CCF) and the sale of fishing business

These were questions from participants that Moss Adams answered after the presentation.

Q: Is there a March 1st deadline specifically for fisherman?

A: *If you're a calendar year taxpayer and at least two-thirds of your gross income for 2020 or 2021 is from farming or fishing, and you file your 2021 Form 1040 by March 1, 2022, you don't need to make an estimated tax payment if you pay all the tax you owe at that time.*

Q: Can you take the per diem expense for your crew?

A: *No, you cannot claim another taxpayers expense.*

Q: Could you also talk about lodging per diem? Lots of preseason work and I know some people claim the lodging per diem.

A: *Lodging per diem deductions are available to employees of the business traveling for business purposes. An employee would be a person receiving a W-2 wage from the employer and crew members whom receive 1099 payments are not considered employees. A owner/shareholder of an S-Corporation would be considered an employee as they are required to pay themselves a reasonable wage and therefore they may be eligible to claim a lodging per diem deduction. Self employed individuals are not allowed to claim the per diem lodging deduction, but may qualify for a per diem meals deduction.*

Q: I heard for 2021 and 22 per diems were 100% not 50%

A: *Per diems are still only 50% deductible. In 2021 and 2022 actual business meals purchased from restaurants are 100% deductible.*

Q: If you bought an outboard motor after the 2022 fishing season in the same calendar year to be used in the following years fishing season of 2023, would the outboard be considered "placed in service" for section 179 depreciation of the year purchased (2022).

A: *As long as the outboard motor is in a condition or state of readiness and availability for a specifically assigned function before the end of a calendar year which it was purchased than yes, the outboard motor could be considered "placed in service" for section depreciation purposes.*

Q: What about the difference between taxed as an LLC vs as an S Corp? You would take all those deductions anyway in the first example so what is the benefit specific to the S Corp election?

A: *The main benefit associated with being treated as an S-Corporation is that income earned from the S-Corporation is not subject to self employment taxes.*

Q: Are there instances where you can use CCF funds to purchase an existing boat?

A: *Please see the following link FAQ#30; https://media.fisheries.noaa.gov/dam-migration/capital-construction-fund-frequently-asked-questions_508c.pdf*

Q: How do you expense food that you bought for the boat, say you spent \$2000 on groceries and have receipts. Skipper and crew won't double dip and claim per diem.

A: *The person/entity which incurs the expense is the one whom is eligible to claim the expense on their tax return. If the Skipper is the one whom paid for the groceries than they would be the one to claim the expense. Skipper would want to consider if they qualify for per diem meals and if so, determine if per diem is more beneficial than actual expense incurred. Crew members may qualify for per diem meals and if so, could claim the deduction on their tax returns. Crew members cannot claim deductions for actual meal expenses they did not incur.*

Q: if selling boat to build boat during the off season which goes through the new year. what's the best way to accomplish this with little tax?

A: *You would want to watch out for a gain on sale of original fishing vessel occurring in one tax year and the depreciation expenses of the new fishing vessel falling in a different tax year. This may lead to a gain in one period where tax may be due and a loss in another tax period.*

Q: as a deckhand who files as a sole proprietor I'm buying a permit from my boss, should i start an S-corp before buying or can i do that further down the road?

A: *There are many factors to consider before deciding to be treated as an S-Corporation for tax purposes. Although purchasing a permit may be one factor to consider, purchasing the permit before creating the S-Corp would not limit your ability to create an S-Corporation in the future.*