Treatment of Benchmark Revenue in Boat Captain Claims for Owner-Operators

1. ***Introduction***. The Historical Revenue Compensation Method of the Seafood Compensation Program provides separate payments to Vessel Owners/Lessees and to Boat Captains working on these vessels. Under the Settlement Agreement, a claimant who both owned or leased a vessel and captained it may file both a Vessel Owner/Lessee and Boat Captain claim. The final compensation for these claims may be determined by using the Historical Revenue Compensation Method that uses Benchmark Revenues from past years as a basis for calculating losses. The Shrimp Program has three other methods that are unavailable to other catch types (New Entrant, Expedited and Reduced Expedited).

   Under the Historical Revenue Compensation Method, there are two alternative methods for calculating Boat Captain compensation, one based on the revenue of the vessel or Vessel Owner/Lessee, and the other based on the actual income of the Boat Captain from his or her commercial fishing activities. The first method allows a Boat Captain to submit either (1) trip tickets or their equivalent or (2) the Vessel Owner's tax records and other documentation sufficient to establish benchmark revenue. The second method requires a Boat Captain to submit his or her own tax records to establish his or her earnings from commercial fishing during the Benchmark Period.

2. ***Treatment of Non-Owner/Operator Revenue.*** For Boat Captains who do not own or lease the vessel on which they harvest Seafood, when using trip tickets or the tax records of the Vessel Owner (usually the Schedule C, D, or E) to establish losses, the Settlement Agreement requires the reduction of the gross Benchmark Revenue by a "Cost Percentage" and a "Loss Percentage." The remainder is multiplied by the Captain Share Percentage to derive the Boat Captain's share of the vessel's revenue, and the Boat Captain RTP is then applied to that number to calculate the Final Compensation amount.

   If the Boat Captain submits his or her own personal tax returns as evidence of Boat Captain earnings, this benchmark revenue is not subject to the Cost Percentage or Captain Share factors. The Boat Captain's Benchmark Revenue is only reduced by the Loss Percentage and then multiplied by the RTP to calculate the final compensation amount. As this Benchmark Revenue reflects what the Boat Captain actually earned, it is not reduced by costs that would not have been taken out of such earnings (*e.g.*, standard industry non-labor variable costs).

3. ***Treatment of Owner-Operator Revenue.*** When a claimant who is both Boat Captain and Vessel Owner/Lessee submits his or her own tax returns – documents that necessarily reflect the vessel's gross revenue – to prove the Benchmark Revenue generated from the vessel's fishing operations, the Seafood Compensation Program uses the gross revenues from the tax returns (reported on Line 1 of Schedule C) as the basis for the Boat Captain compensation calculation. Accordingly, that gross revenue (Line 1) is reduced by the Cost Percentage, Loss Percentage, and Captain Share factors. That remainder is then multiplied by the Boat Captain RTP to determine the Final Compensation amount. The Program will not accept the vessel's after-costs adjusted revenue (*e.g.*, Line 29 revenue) in place of Line 1 gross revenue for Boat Captains who also own or lease the vessel on which they fish. To do so would improperly allow the double-counting of revenue.

4. ***Questions***. If you have any questions regarding this Alert, email us at Questions@dhecc.com, call us at 1-800-353-1262, or visit a Claimant Assistance Center. Law firms should get in touch with their Law Firm Contacts for help.