

Order on Taxation of Seafarers

The following shall be laid down pursuant to section 12 of Act no. 386 of 27 May 2005 on Taxation of Seafarers (*lov om beskatning af søfolk*), as amended by Act no. 343 of 18 April 2007.

Administration of the regulations on seafarers' tax deductions

Section 1. Seafarers' tax deductions may be elected in the following cases when the conditions in section 3 of the Taxation of Seafarers Act (*lov om beskatning af søfolk*) are met:

- 1) On employment for work on board a ship when the person in question is a part of the ordinary operational crew and only carries out activities concerning the ordinary operations of the ship in a broad sense.
- 2) On employment of a temporary nature for special maintenance and repair work on board a ship. It is a condition that the work is carried out while the ship is in ordinary operation, that the person in question is a part of or could be a part of the safety or operational crew of the ship, and that the work could not at first sight be carried out by shore-based personnel.
- 3) When signing on a ship with regard to carrying out activities in connection with the ship's special rigging, cargo, duties or navigation when the person in question is a part of the operational crew of the ship.
- 4) When working on board ships which are not operational due to repair work, temporary decommissioning, etc. for no more than six months. It is conditional that the person in question was covered by the Taxation of Seafarers Act immediately before the repair work or the temporary decommissioning, and that the conditions of employment were not solely entered into with the object of carrying out work on board a ship which is out of service. Shipyard workers, shore-based repair operatives, etc. shall not be covered.

Subsection 2. Subsection 1 shall apply correspondingly in the following cases:

- 1) When carrying out inspection tasks of up to six months in connection with new building of ships when after completion the ship meets the requirements for applying section 3 of the Taxation of Seafarers Act and the person in question immediately after completion is signed on to the ship, cf. subsection 1(i) and (iii).
- 2) When attending training courses etc. of up to three months in total within a twelve-month period, providing that said person immediately before the training course was covered by subsection 1(i) and that this person was still employed by the shipping company during the training course.

Subsection 3. Required travel days in connection with signing on and signing off shall be considered as work carried out on board a ship. Travel days may not exceed more than 14 days within a twelve-month period.

Section 2. When assessing whether the wage earner is employed on usual terms of engagement, cf. section 3(1) of this Act, emphasis is put on whether the wage earner is employed with salary and working conditions equivalent to the conditions which shall apply according to collective agreements between the social partners for work of said nature and that the terms of engagement in general are equivalent to the usual salary and terms of employment for employees with the same seniority.

Subsection 2. When assessing whether the condition of the opportunity to stay overnight at the habitual domicile of the person in question is met, cf. section 2(3)(e) of this Act, emphasis is put on whether the wage earner has the opportunity to stay overnight at his/her habitual domicile, taking into account the distance between habitual domicile and the place where the ship is moored alongside the quay.

Section 3. When a person has been hired to work on board a ship, cf. section 1, for a part of the year or has been hired with pre-arranged working hours which are less than the working hours corresponding to the usual full-time terms of engagement, the seafarers' deductions shall be granted proportionately, cf. section 3(1), 3rd clause of the Taxation of Seafarers Act (*lov om beskatning af søfolk*).

Subsection 2. When reporting information to the customs and tax authorities about the number of days at sea for persons covered by subsection 1, the employer shall convert the number of days at sea so it is equivalent to the number for employment on usual full-time terms of engagement.

*Administration of the regulations on taxation of seafarers on board ships
registered in the Danish International Register of Shipping*

Section 4. Earned income may be liable for taxation according to section 5 and 5a of the Taxation of Seafarers Act (*lov om beskatning af søfolk*) to the same extent as mentioned in section 1 when the ship is Danish and registered in the Danish International Register of Shipping and used for purposes which could be covered by the Tonnage Tax Act (*tonnageskatteloven*) or as a cable-laying vessel. For inspection tasks as referred to in section 1(2)(i), it shall be on the condition that the ship after completion meets the requirements for application of section 5 or 5a of the Taxation of Seafarers Act (*lov om beskatning af søfolk*).

Subsection 2. When earned income, allowances and bonuses etc. are fixed, taking into account the tax reduction, cf. section 5(3) of the Act, for allowances and bonuses etc. covered by section 7U of the "*ligningsloven*" (act on the assessment of income tax to the state), it shall be conditional that when assessing the Danish International Register of Shipping income, which shall be included in the determination of the income liable for taxation as well as when assessing the Danish International Register of Shipping income entitled to tax relief, the basic deduction of DKK 8,000 referred to in section 7U of the "*ligningsloven*" (act on the assessment of income tax to the state) shall not be included. The amount not included may, however, not exceed the Danish International Register of Shipping income according to section 7U of the "*ligningsloven*" (act on the assessment of income tax to the state). If a person for the same income year has received both Danish International Register of Shipping income and other income covered by section 7U of the "*ligningsloven*" (act on the assessment of income tax to the state), the basic deduction shall be divided proportionately between the Danish International Register of Shipping income and the other income.

Subsection 3. The employer shall be able to prove to the customs and tax authorities how pay, allowances and bonuses etc. covered by sections 5 and 5a of the Act have been fixed.

Section 5. When determining the extent of sea transport for cable-laying vessels and for tug boats and salvage ships, cf. section 5a(2) and section 6 of the Act, mobilisation at sea between tasks – equivalent to the navigation of cargo ships in ballast – shall be considered as sea transport.

Administration of the regulations in cases where a ship for periods is used for other purposes

Section 6. When a Danish or a foreign ship, cf. section 2(i) and (ii) of the Taxation of Seafarers Act (*lov om beskatning af søfolk*), for periods is used for other purposes than the ones stated in the provision mentioned, seafarers' deductions according to section 3(1) of the Act cannot be obtained in such periods. The same shall apply to situations where boulder removal vessels, including suction dredgers, are used for other purposes than boulder removal/suction dredging or for purposes mentioned in section 2(i) of the Act.

Section 7. When a Danish ship that is not a cable-laying vessel, cf. section 2(i) of the Taxation of Seafarers Act (*lov om beskatning af søfolk*), for periods is used for purposes which would not be covered by the tonnage taxation scheme, section 5a of the Act shall not apply to such periods. If the vessel is used for purposes that could be covered by the tonnage taxation scheme, section 5 of the Act shall apply.

Administration of the regulations on taxation of work outside the EU/ EEA

Section 8. For the purposes of the *lov om beskatning af søfolk* (Taxation of Seafarers Act), “EU/EEA” shall mean the geographical territories of the member States, including the territorial waters of the member States, as well as the sea areas that are, in accordance with international law, at any time designated as the exclusive economic zones of the member States.

Subsection 2. When work is carried out on board boulder-removal vessels, including suction dredgers, outside the EU/EEA as referred to in section 10(1) of the Taxation of Seafarers Act (*lov om beskatning af søfolk*), it may be elected to apply the same tax rules as for persons covered by section 5 of the Taxation of Seafarers Act (*lov om beskatning af søfolk*), regardless of that boulder-removal vessels may not be registered in the Danish International Register of Shipping.

Subsection 2. When it is elected that income as referred to in subsection 2 should be liable for taxation according to the regulations of section 5 of the Act, the income shall be reported by the employer to the customs and tax authorities as Danish International Register of Shipping income.

Subsection 3. Section 4(2) and (3) shall apply correspondingly.

Reimbursement scheme for boulder-removal vessels (suction dredgers)

Section 9. Reimbursement according to section 10 of the Taxation of Seafarers Act (*lov om beskatning af søfolk*) shall be carried out on the basis of the actual use of the vessel. When assessing whether the requirements for reimbursement are met, the registration of the vessel in itself shall not be decisive. Nor shall it be decisive whether the vessel works on the basis of an extraction license issued pursuant to the Mineral Resources Act (*råstofloven*) or on the basis of other public regulation.

Section 10. Reimbursement shall be given for each concluded calendar month or annually, cf. section 11, where the condition that the sea transport shall constitute no less than 50 per cent of the time the ship is in service is met, cf. section 10(2) of the Act. If this condition is met, reimbursement shall be given with an amount corresponding to 40 per cent of the basis, cf. section 10(3)-(4) of the Act, regardless of the extent of the sea transport exceeding the minimum requirements set in the Act. Reimbursement may under no circumstances be obtained for income covered by sections 5, 5a and 8 of the Act.

Subsection 2. When applying subsection 1, the time the ship has been out of service shall be divided proportionately between time spent on sea transport activities and time spent on other activities, according to the same regulations applying for tow boats and salvage ships, cf. section 6(2) of the Act. A ship shall be considered to be out of service when the work has been suspended or cannot be initiated because it awaits authority approvals, repair and maintenance work, a shipyard visit, interruptions due to the weather or other interruptions in the regular service of the ship.

Section 11. Election of a statement on an annual basis shall be binding for the entire calendar year and shall be made not later than the due date for submission of the first request for reimbursement in the calendar year in question. Sections 12-15 shall apply correspondingly to elections of statement on an annual basis. When making statements on an annual basis, the statements of reimbursements and statement of the extent of the sea transport in the entire calendar year shall be submitted not later than by the end of January in the following year, cf. however subsection 4.

Subsection 2. When electing statements on an annual basis, the customs and tax authorities may, on condition of bank guarantee or other appropriate security allow payment of monthly on-account reimbursements to be carried out. The security shall be offered at the date when the customs and tax authorities authorise on-account payments. The security shall at any time cover the amount paid in the calendar year in question and shall be offered for the period until the end of March the following year.

Subsection 3. Request for on-account payment shall be submitted to the customs and tax authorities with an enclosed statement of the expected reimbursement amount for the calendar year in question. The request shall be signed by the undertaking submitting the request and by the auditor of the undertaking. The customs and tax authorities may wholly or partly refuse on-account payment if the circumstances of the undertaking so warrant.

Subsection 4. The customs and tax authorities may, against corresponding extension of security given pursuant to subsection 2, extend the deadline under subsection 1, third clause, under special conditions. The deadline may not be extended for longer than until the end of March.

Subsection 5. The security shall be released after completion of the customs and tax authorities' review and check of the statements according to subsection 1. If the customs and tax authorities are not able to carry out checks due to circumstances of the undertaking before the security expires, the customs and tax authorities may demand the security to be realised. The same shall be the case if the deadlines stipulated in subsection 1, third clause, and subsection 4 are not observed.

Section 12. Reimbursement shall be given to wage earners as 40 per cent of the basis for social security contributions for income which warrants deductions according to section 3 of the Taxation of Seafarers Act (*lov om beskatning af søfolk*), and which may be connected to work on board said vessel in the month or the year reimbursement shall be given, cf. however subsection 3.

Subsection 2. Reimbursement shall be given to the owner of the vessel as an average of the reimbursement amounts for wage earners covered by subsection 1. If a wage earner covered by subsection 1 has not carried out work on board said vessel for the entire month in question, the reimbursement amount shall be recalculated when applying the 1st clause for the person concerned into the amount corresponding to full-time employment on board the vessel. If the owner of the vessel has only worked on board the vessel for a part of the month in question, the reimbursement amount shall be calculated proportionately.

Subsection 3. Reimbursements may not be given on the basis of income which is higher than the income that could be achieved from employment on usual terms of engagement, cf. section 2(1).

Section 13. Sea transport according to section 10 shall generally be considered as:

- 1) Navigation between harbour and extraction site.
- 2) Navigation between extraction site and the place where the extracted materials are to be unloaded, including the unloading itself.
- 3) Navigation between location of unloading and harbour.
- 4) Navigation between extraction sites.
- 5) Navigation when assisting at the request of a public authority in connection with clean-up after oil spills, etc.

Subsection 2. Activities within the area of delimited trade, cf. section 2(3) of the Taxation of Seafarers Act (*lov om beskatning af søfolk*), shall not be considered as sea transport when applying section 10 of the Act.

Section 14. Request for reimbursement shall be submitted to the customs and tax authorities before the end of the following calendar month. The customs and tax authorities may extend this deadline under special conditions. The customs and tax authorities may refuse to receive requests for payment of reimbursements after the expiry of the deadlines mentioned in the first and second clauses.

Subsection 2. A statement of the basis for reimbursement shall be enclosed with the request, cf. section 12, divided between wage earners with specification of Civil Registration System numbers and similar for the owner of the vessel, when this becomes necessary. Furthermore, a statement of the extent of sea transport shall be enclosed with the request. The statements shall be signed by the undertaking submitting the request. The customs and tax authorities may decide that further documentation shall be submitted or that the request or the documentation shall be submitted on special forms.

Subsection 3. The extent of sea transport shall be documented by separate statements. Statements shall be available in the form of records in the log book of the vessel or in any other way determined by the customs and tax authorities. Statements shall be kept by the undertaking and they shall with the log book or a printout of the logbook and other relevant material on demand be presented to or forwarded to the customs and tax authorities. Log book, financial records and related annexes shall be kept for at least 5 years after the end of the accounting year in question. The 2nd and 3rd clauses shall apply correspondingly to statements of the basis for reimbursement.

Section 15. The reimbursement amount shall be paid by the customs and tax authorities no later than three weeks after the receipt of the request. If the customs and tax authorities, due to circumstances of the undertaking, cannot carry out checks of the request, the payment period shall be suspended until the circumstances of the undertaking no longer prevent checks.

Section 16. Any adjustments concerning over or under payment of reimbursement in connection with a previous request according to section 14 shall against documentation be included in the request for reimbursement for the calendar month in which the error was found.

Subsection 2. If the requirements have not been met for reimbursement in the calendar month in which the error was found, or the undertaking has elected statement on an annual basis pursuant to section 11, a request solely concerning the error shall be submitted for the calendar month in question.

Section 17. Under paid reimbursement amounts shall be paid to the undertaking according to section 15. Over paid reimbursement amounts shall be charged to the undertaking for payment no later than 14 days after demand.

Subsection 2. If an undertaking has received too much in reimbursement, and the size of the amount to be repaid cannot be calculated on the basis of the undertaking accounts, the customs and tax authorities may fix the reimbursement of the company based on an estimate.

Other provisions

Section 18. Undertakings shall be able to provide documentation of the use of ships to the customs and tax authorities when seafarers on board are covered by sections 3, 5, 5a or 8 of the Taxation of Seafarers Act (*lov om besatning af søfolk*), or the ship is covered by section 5a(2) or section 6 of the Act.

Subsection 2. Documentation according to subsection 1 shall be presented in the form of statements in the log book of the vessel or a printout of the log book or in other ways determined by the customs and tax authorities. Documentation shall be kept by the company for at least five years after the end of the accounting year in question, and shall on demand be presented or forwarded to the customs and tax authorities.

Section 19. For persons domiciled on the Faeroe Islands or in Greenland, and who have not elected gross taxation by 30 per cent according to section 9(1) of the Taxation of Seafarers Act (*lov om beskatning af søfolk*), the amount, accruing to the treasuries of the Faeroe Islands and Greenland, respectively, shall be calculated as the part of tax on income of the person in question for Denmark that proportionately is paid from the income, which according to the specified legal provision could be subject to gross taxation and which does not form part of the basis for reimbursement to the company pursuant to sections 9-17.

Subsection 2. Income and expenses with no connection to the earning of income, which is liable for taxation in Denmark, shall not be included in the calculation according to subsection 1. However, amounts larger than the part of the total actual tax payment, which proportionately shall be paid from the earned income, which could be subject to gross taxation, may not be transferred.

Section 20. Order no. 653 of 28 June 2005 on taxation of seafarers shall be repealed.

Section 21. This Order shall enter into force on 1 June 2009.

The Danish Ministry of Taxation, 7 May 2009
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