



**INLAND REVENUE BOARD OF MALAYSIA**

**TAXATION OF INCOME FROM  
EMPLOYMENT ON BOARD A SHIP  
PUBLIC RULING NO. 12/2016**

*Translation from the original Bahasa Malaysia text*

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#### **DIRECTOR GENERAL'S PUBLIC RULING**

Section 138A of the Income Tax Act 1967 (ITA) provides that the Director General is empowered to make a Public Ruling in relation to the application of any provisions of the ITA.

A Public Ruling is published as a guide for the public and officers of the Inland Revenue Board of Malaysia. It sets out the interpretation of the Director General in respect of the particular tax law and the policy as well as the procedure that is applicable to it.

The Director General may withdraw this Public Ruling either wholly or in part, by notice of withdrawal or by publication of a new Public Ruling.

**Director General of Inland Revenue,  
Inland Revenue Board of Malaysia.**

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1. **Objective**

The objective of this Public Ruling (PR) is to explain the tax treatment of income of an individual derived from an employment exercised on board a ship.

2. **Relevant Provisions of the Law**

2.1 This PR takes into accounts laws which are in force as at the date this PR is published.

2.2 The provisions of the Income Tax Act 1967 (ITA) related to this PR are paragraph 4(b), sections 7 and 8, paragraph 13(2)(e) and paragraph 34 of Schedule 6.

3. **Interpretation**

The words used in this PR have the following meaning:

3.1 **“Ship”** means a sea-going ship other than a ferry, barge, tug-boat, supply vessel, crew boat, lighter, dredger, fishing boat or other similar vessel.

3.2 **“Cargo”** includes mail, currency, specie, livestock and all kinds of goods.

3.3 **“Employer”**, in relation to an employment, means –

(a) where the relationship of master and servant subsists, the master;

(b) where that relationship does not subsist, the person who pays or is responsible for paying any remuneration to the employee who has the employment, notwithstanding that that person and the employee may be the same person acting in different capacities.

3.4 **“Person”** includes a company, a body of persons, a limited liability partnership and a corporation sole.

3.5 **“Employee”**, in relation to an employment, means –

(a) where the relationship of master and servant subsists, the servant;

(b) where the relationship does not subsist, the holder of the appointment or office which constitutes the employment.

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- 3.6 **“Seafarer”** or a seaman means any person who is employed or engaged on board a ship, except persons not directly employed for the normal manning of the ship within the deck, engine or catering department.
- 3.7 **“Voyage”** means the whole time and the whole distance between the ship’s port or place of departure and its final port or place of arrival.
- 3.8 **“International voyage”** means a voyage from a port in one country to a port in another country.
- 3.9 **“Resident”** means resident in Malaysia for the basis year for a year of assessment by virtue of section 7 or 8 of the ITA.
- 3.10 **“Employment”** means –
- (a) employment in which the relationship of master and servant subsists;
  - (b) any appointment or office, whether public or not and whether or not that relationship subsists, for which remuneration is payable.
- 3.11 **“Basis year”** means the calendar year coinciding with a year of assessment.
- 3.12 **“Vessel”** includes any ship or boat or any other description of vessel used in navigation.

#### 4. Introduction

##### 4.1 Ship

For the purpose of this PR, a ship is a **sea-going** ship that sails on international waters. It is engaged in international voyage for the transportation of passengers and cargo. The ship could take many months to reach its destination and may make port calls on its voyage to replenish supplies, fuel, etc.

A ship does not include the following vessels:

- (i) ferry;
- (ii) barge or lighter;
- (iii) tug-boat;
- (iv) supply vessel;
- (v) crew boat;
- (vi) dredger;
- (vii) fishing boat;

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- (viii) a ship that is trading and/or operating exclusively within ports in Malaysia;
  - (ix) an offshore vessel whose primary service is drilling operations for the exploration, exploitation or production of resources beneath the sea bed and is not ordinarily engaged in navigation or international voyages;
  - (x) Floating Storage and Offloading (FSO), Floating, Production, Storage and Offloading (FPSO), or any other vessel of similar operations;
  - (xi) warship or naval auxiliaries;
  - (xii) any ship belonging to or in the employment of the Government of Malaysia or any State thereof; or
  - (xiii) other similar vessel.

#### 4.2 Seafarer

To qualify as a seafarer, a person has to undergo courses and training at a maritime academy. After successful completion of the course and training, he will be awarded a certificate indicating his qualification and issued with a seafarer card identifying him as a seafarer. The seafarer card enables him to apply for a job on board a vessel.

A seafarer who is employed to work on board a ship will sail for months with the ship and make port calls at different countries on the voyage. His employment is mainly exercised on the high seas.

For the purpose of this PR, a seafarer does not include the following persons:

- (i) pilot<sup>1</sup>;
  - (ii) superintendent, surveyor, auditor, inspector;
  - (iii) scientist, researcher, diver, specialist offshore technician, etc whose work is not part of the routine business of the ship;
  - (iv) a person who works on board the ship solely within a port or at a port facility;
  - (v) repair and maintenance technician;
  - (vi) non-marine personnel which are employed under an outsourced service agreement, the terms of which determine conditions under which the service provider will supply the necessary personnel;
  - (vii) military and armed personnel; and
  - (viii) temporary riding crew.
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<sup>1</sup>A pilot is not a member of a vessel's crew, but one who comes aboard to help navigate the vessel in or out of a port.

**5. Derivation of Income**

5.1 Under international taxation law, the employment income of a seafarer may be taxed in the country in which the place of effective management of the ship operator is situated. Malaysian law under paragraph 13(2)(e) of the ITA states that gross income of an individual in respect of gains or profits from an employment is deemed to be derived from Malaysia -

- (a) for any period during which the employment is exercised on board a ship that is used in a business; and
- (b) the business is operated by a person who is resident in Malaysia for the basis year for a year of assessment and within that basis year of that period mentioned in subparagraph 5.1(a) or part of that period falls.

**Example 1**

Azrul, a Malaysian is a seafarer working as a First Engineer on board the ship Gemilang which sails between ports in Malaysia and Europe. Gemilang is operated by Armada Shipping Sdn Bhd, a company resident in Malaysia and having its office in Kuala Lumpur.

Azrul's employment income on board the ship is deemed to be derived from Malaysia. Hence, the income is subject to tax in Malaysia.

**Example 2**

Marco, a Filipino is a seafarer. He works as a Chief Steward on board the ship Bunga Okid operated by Seamaster Sdn Bhd, a company having its headquarters in Port Klang and is resident in Malaysia. Bunga Okid sails between ports in Malaysia and North America.

Marco's employment income on board the ship is deemed to be derived from Malaysia. Hence, the income is subject to tax in Malaysia.

5.2 The income of a seafarer from employment exercised on board a ship operated by a person who is not resident in Malaysia is deemed not derived from Malaysia. Thus, the income is not subject to tax in Malaysia.

**Example 3**

Wong, a Malaysian, works as a Chief Mate on board the ship Pride of Sea which is operated by Global Shipping Services Inc. The operator is a company having its effective management and control of business in Panama. Pride of Sea sails from ports in Europe to the Asia Pacific. It

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makes port calls in Malaysia every year for unloading of its cargo and crew change on its voyage.

Wong's income from employment is deemed not derived from Malaysia and is therefore not subject to tax in Malaysia.

#### **Example 4**

Eko, an Indonesian, works as an Oiler on board the ship Northern Light which is operated by Norwegian Shipping, a company having its headquarters in Oslo, Norway. Northern Light sails from ports in Norway to Asia and the Australasia. It makes port calls in Malaysia for loading of cargo and replenishing supplies on its voyage.

Eko's income from employment is deemed not derived from Malaysia and is therefore not subject to tax in Malaysia.

Please refer to **Appendix I** for a better understanding of the related deeming provisions in the ITA.

## **6. Tax Treatment**

### **6.1 Exemption of income from employment on board a ship**

Paragraph 34, Schedule 6 of the ITA stipulates that the income of an individual derived from exercising an employment on board a ship is exempted from tax when the following conditions are met:

- (a) the employment is exercised on board a ship that is used in a business;
- (b) the business is operated by a person who is resident in Malaysia; and
- (c) the person who operates the business must be the registered owner of a ship under the Merchant Shipping Ordinance 1952 (Ord. 70/1952) (MSO).

#### **Example 5**

Captain Moktar is the Master of a liquefied natural gas (LNG) carrier, Bintang Terang used in transporting LNG from Bintulu, Malaysia to various ports in Japan and China. Bintang Terang is operated by Bintang Shipping Sdn Bhd, a company resident in Malaysia. It is also the registered owner of the LNG carrier under the MSO.

For the year 2015, Captain Moktar was on board Bintang Terang for 10 months carrying out his duty. He was paid USD80,000 for the voyages that he was assigned to.

Captain Moktar is eligible for exemption on his employment income as the LNG carrier is a sea-going ship for the transportation of cargo, and it is operated by a person resident in Malaysia who is the registered owner of the ship.

### **Example 6**

Naga Shipping Sdn Bhd is a shipping company resident in Malaysia. It carries on the business of transporting agriculture and industrial products from Malaysia to other countries by sea. It owns and operates the tanker, Kapal Mubin which is registered under the MSO. In addition, it also charters the tanker, Flying Fish from a foreign company for its business use. Kapal Mubin sails between Malaysia and the Oceanian countries while Flying Fish sails between Malaysia and North America.

Mazlan was employed by the company as the First Engineer in the Engine Department of Kapal Mubin. Freddy was employed as the Chief Radio Officer on board the Flying Fish. Both have no other sources of income besides the employment income from the company.

For the year 2015, Mazlan was on board Kapal Mubin for 11 months and he was paid USD50,000 for the voyages. Freddy was on board Flying Fish for 9 months and he was paid USD35,000 for the voyages.

<b>Employee</b>	<b>Name of Ship</b>	<b>Particulars of Ship</b>
Mazlan	Kapal Mubin	<ul style="list-style-type: none"> <li>• Malaysian tanker</li> <li>• sea-going ship</li> <li>• registered under the MSO</li> <li>• ship is owned by the business operator</li> </ul>
Freddy	Flying Fish	<ul style="list-style-type: none"> <li>• foreign tanker</li> <li>• sea-going ship</li> <li>• not registered under MSO</li> <li>• the ship is chartered by the business operator</li> </ul>

- (a) Mazlan's income from his employment exercised on board the ship Kapal Mubin is eligible for exemption from tax as the ship operator i.e. Naga Shipping Sdn. Bhd. is a resident in Malaysia and it is also the registered owner of the ship under the MSO.
- (b) Freddy's income from exercising his employment on board the ship Flying Fish is also eligible for exemption from tax. Although Flying Fish is a foreign ship, it is operated by a person who is the registered owner of a ship i.e. Kapal Mubin under the MSO and is resident in Malaysia. Hence, his income qualifies for the exemption.

## 6.2 Employment not solely exercised on board a ship

A seafarer may not be a permanent employee of a company. He can be employed for a particular voyage and his employment with the company ceases when he is discharged from his duty. He may take a rest after the voyage and then seek employment again with any company.

Besides working on board a ship, a seafarer may also work onshore, on offshore oil rigs or other vessels.

### Example 7

Javier Singh was employed by Syarikat Maritim Sdn Bhd (SMSB) as a Deck Officer in the year 2015. SMSB is a company resident in Malaysia which carries on a business of cargo transportation by container ships. It is the registered owner of a container ship under the MSO which is used in its business. The company also leases a few container ships from a Singapore company. The container ships are operated by SMSB to ply between Malaysia and several ports in foreign countries. During the year, he was seconded for service in the shore-based office for 2 months and subsequently continued his service on board a container ship operated by SMSB as follows:

Time Period	1.1.2015 – 31.5.2015	1.6.2015 – 30.6.2015	1.7.2015 – 31.8.2015	1.9.2015 – 31.12.2015
		5 months	1 month	2 months
Services performed	Exercised duties on board a container ship	On paid leave	Exercised duties in employer's shore-based office	Exercised duties on board a container ship

Time Period	1.1.2015 – 31.5.2015	1.6.2015 – 30.6.2015	1.7.2015 – 31.8.2015	1.9.2015 – 31.12.2015
	5 months	1 month	2 months	4 months
	Total income from employment = RM120,000			

Year of Assessment 2015

(a) Employment income subject to tax:

$$\frac{1.7.2015 - 31.8.2015 \text{ (duties onshore)}}{12 \text{ months}} \times \text{RM}120,000$$

$$= \text{RM}20,000$$

(b) Employment income eligible for exemption from tax = RM100,000

**Example 8**

Adnan, a seafarer made an enquiry at the Inland Revenue Board of Malaysia (IRBM) whether his employment income would be taxed for the year of assessment 2015. He was advised by the IRBM officer to submit all the relevant documents pertaining to his employment in 2015. The following documents were submitted:

- i) Seafarer card;
- ii) Seaman's book;
- iii) Employment contracts; and
- iv) Registration certificates of the vessels that he was employed to work on board.

His employment income was derived as follows–

- (a) He was employed as a Chief Cook in the Catering Department of Sea Fortune, a container ship that transports cargo and the registered owner under MSO is Lautan Services Sdn Bhd, a company resident in Malaysia. He was employed for a voyage to and from Port Klang, Malaysia to New York in the United States. The duration of his employment was from 10.1.2015 to 20.7.2015. He was paid USD25,000 for the voyage.
- (b) After his return from New York, Adnan took a rest before he sought employment with another company. He was employed as a Steward on board the Bunga Raya from 1.9.2015 to 30.11.2015.

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Bunga Raya is registered as a **supply vessel** under the MSO. The registered owner is Kapal Services Sdn Bhd, a company resident in Malaysia. He was paid RM40,000 for his employment on board the Bunga Raya.

Tax treatment

- (i) Adnan's income from his employment on board the Sea Fortune is exempted from tax under paragraph 34, Schedule 6 of the ITA as it is a sea-going ship, operated by Lautan Services Sdn Bhd who is resident in Malaysia and is the registered owner of Sea Fortune under the MSO.
- (ii) Adnan's income from his employment on board the Bunga Raya is subject to tax as it is not a sea-going ship.

**6.3 Employment with an operator who is not a registered owner of a ship under the MSO**

If the ship on which an individual exercises his employment is operated by a person who is resident in Malaysia but not a registered owner of a ship under the MSO, the exemption of income from tax as provided under paragraph 34 Schedule 6 of the ITA would not apply to his employment income.

**Example 9**

Chandra, a Malaysian citizen, serves as an Able Seaman in the Deck Department of the container ship, Seagull. The ship is registered and owned by a company in the Panama. Seagull is on hire and operated by Ocean Shipping Sdn Bhd, a company resident in Malaysia. Ocean Shipping Sdn Bhd does not own any ship that is registered under the MSO.

Chandra's income that is derived from employment on board the Seagull is not eligible for exemption from tax.

Please refer to **Appendix II** for the illustration on eligibility for exemption of income from tax that applies to a seafarer.

**7. Double Taxation Agreement**

Generally, the model adopted by Malaysia in its treaties with regard to income in respect of an employment exercised on board a ship operating in international waters is that it is taxable in the State of the ship operator.

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The relevant Double Taxation Agreement with the respective country is to be referred to for certainty.

#### 8. Documents Required for Verification

A seafarer will be required to substantiate his claim that his income is eligible for exemption from tax by providing the following documents as evidence:

- (a) seafarer card – an identification card that the individual is a seafarer;
- (b) seaman's book – a record of his services on board all the vessels he is assigned to carry out his employment;
- (c) employment contract or letter of appointment - showing details of his employment such as:
  - (i) rank or position held;
  - (ii) period of employment;
  - (iii) remuneration in respect of that period;
  - (iv) name and type of vessel he is assigned to work;
  - (v) ship route or voyage during the period of employment, and etc.
- (d) registration certificate of the ship or a ship under the MSO - showing particulars such as type of vessel, registered owner, etc; and
- (e) any other relevant documents.

#### 9. Responsibility of Employer and Seafarer

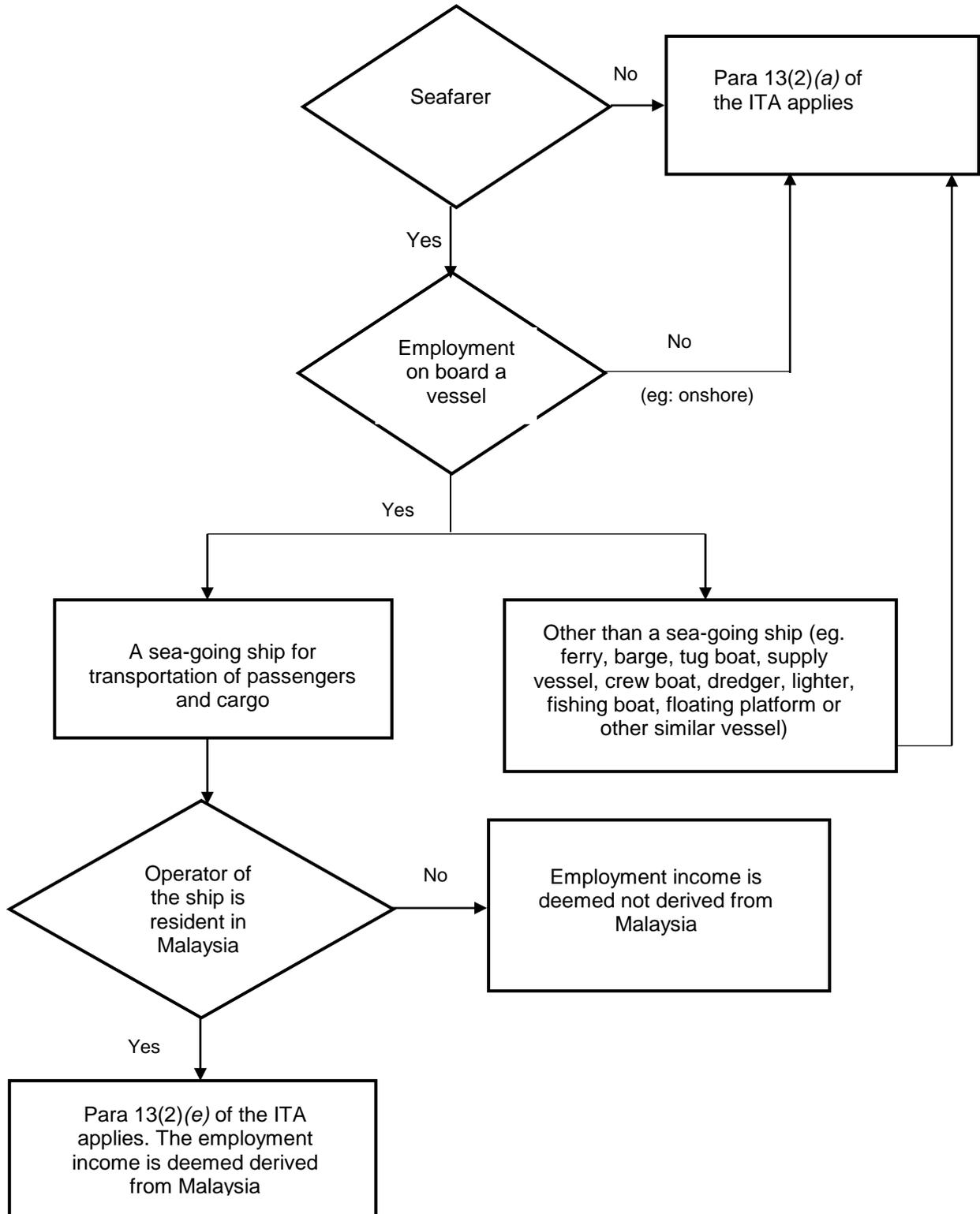
Where the income of a seafarer does not qualify for exemption from tax, his employer has to comply with the deduction of tax from his remuneration under the Monthly Tax Deduction schedule.

The seafarer is required to file his income tax return form to the IRBM branch office that handles his tax file. He is to be taxed according to his resident status in the basis year if his employment income is not eligible for exemption from tax.

**Director General of Inland Revenue,  
Inland Revenue Board of Malaysia.**

**Appendix I**

**DEEMING PROVISIONS OF EMPLOYMENT INCOME**



Appendix II

DETERMINING EXEMPTION OF INCOME OF A SEAFARER

