

TECHNICAL

Direct Taxation

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

This Public Ruling (PR) was issued on 9 December 2016 and was reported in our [e-CTIM TECH-DT 109/2016](#) dated 14 December 2016. Its objective is to explain the tax treatment of income of an individual derived from an employment exercised on board a ship.

The contents of this PR are summarized below.

Para-graph #	Summary						
1 & 2	The objective of the PR and the relevant provisions of the law are stated in paragraphs 1 and 2 respectively.						
3	<p>Provides definitions of terms used in the PR. (The meanings of words <u>underlined</u> in this table are provided in para.3.) Among the words defined are:</p> <table border="1"> <tr> <td>Seafarer or seaman</td><td>any <u>person</u> 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.</td></tr> <tr> <td>voyage</td><td>the whole time and the whole distance between the ship's port or place of departure and its final port or place of arrival.</td></tr> <tr> <td>vessel</td><td>includes any ship or boat or any other description of vessel used in navigation.</td></tr> </table>	Seafarer or seaman	any <u>person</u> 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.	voyage	the whole time and the whole distance between the ship's port or place of departure and its final port or place of arrival.	vessel	includes any ship or boat or any other description of vessel used in navigation.
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4	<p><i>Introduction</i> (para. 4.1)</p> <ul style="list-style-type: none"> For the purpose of this PR, a <u>ship</u> is sea-going ship that sails on international waters. It is engaged in <u>international voyage</u> for the transportation of passengers and <u>cargo</u>. Certain types of vessels (such as a ferry, barge or lighter, tug-boat, supply vessel etc.) are excluded from the definition of "ship". These are listed in items (i) to (xiii) in para. 4.1 						
	<p><i>Seafarer</i> (para. 4.2)</p> <p>To be a "<u>seafarer</u>" one has to undergo courses and training at a maritime academy, at the completion of which he/she is awarded a certificate indicating his/her qualification, as well as a seafarer card (identifying him/her as a seafarer) that enables that person to apply for <u>employment</u> on board a <u>vessel</u>. The seafarer's employment is mainly exercised on the high seas. However, for the purpose of this PR, a "seafarer" does not include certain persons, (who may be working aboard a vessel) which are listed in items <u>(i) to (viii) of para. 4.2</u>. Those listed include a pilot, a superintendent, surveyor, auditor or inspector; a repair and maintenance technician.</p>						
	Example						

5 & 6	<i>Derivation of income and tax treatment</i>	# in PR
5.1	Under international taxation law, a seafarer's income from employment may be taxed in the country in which the place of effective management of the ship operator is situated. Under S13(2)(e) of the ITA, income 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 <u>resident</u> in Malaysia for the <u>basis year</u> (BY) for a year of assessment (YA) and within that BY, that period or part of that period falls. (Appendix I shows in diagrammatic form, the application of this deeming provision.)	1 and 2
5.2	The income of a seafarer from an employment exercised on board a ship operated by a person who is not resident in Malaysia is deemed to be not derived from Malaysia, and therefore not taxed in Malaysia.	3 and 4
6.1	Under para. 34 of Schedule 6 of the ITA, income of an individual derived from an employment exercised on board a ship is exempt from tax, subject to the following conditions: (a) the employment is exercised on board a ship used in a business; (b) the business is operated by a person who is resident in Malaysia; (c) the operator of the business is the registered owner of a ship under the Merchant Shipping Ordinance 1952 (MSO).	5 and 6
6.2	A seafarer may derive income from an employment which is not solely exercised on board a ship. For example, besides working on board a ship, he is required to work onshore, or on offshore oil rigs or other vessels. Examples 7 and 8 illustrate the computation of the amount of income which is subject to tax and the amount which is eligible for exemption when the employment is not solely exercised on board a ship.	7 and 8
6.3	If an employment is exercised on board a ship which is operated by a person who is resident in Malaysia but is not the registered owner of a ship under the MSO, the exemption under para. 34 of Schedule 6 does not apply to that employment income. (Appendix II shows (diagrammatically) how to determine whether a seafarer is eligible for exemption on his income.)	9
7	<i>Double Taxation Agreements (DTA)</i> In general, in the treaties signed between Malaysia and its treaty partners, income in respect of an employment exercised on board a ship operating in international waters is treated as taxable in the State of the ship operator. However, the relevant DTA must be referred to for certainty.	
8	<i>Documents required for verification</i> Documents that are required to be submitted by a seafarer as evidence that his income is eligible for exemption are listed in items (a) to (e) in para. 8 . They include the seafarer card, the seaman's book, the employment contract or letter of appointment, and the registration certificate of the ship or a ship under the MSO.	
9	<i>Responsibility of employer and seafarer</i> Where the income of a seafarer does not qualify for exemption, his employer	

	must make deductions of tax from his remuneration in compliance with the Monthly Tax Deduction schedule. The seafarer is required to submit his income tax return to the LHDNM. Any income which is not eligible for exemption is taxed in accordance with the residence status of the taxpayer for the relevant BY.
Appendix	Title
I	Deeming Provisions Of Employment Income
II	Determining Exemption Of Income Of A Seafarer

Members may read the PR in full at the websites of the [Institute](#) and the [LHDNM](#).

You may write to the Institute at technical@ctim.org.my or secretariat@ctim.org.my in respect of any suggestions, concern or comments you may have on the [PR](#) so that we may raise them to the LHDNM.

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