



INLAND REVENUE BOARD OF MALAYSIA

**TAXATION OF INCOME FROM
EMPLOYMENT ON BOARD A SHIP
PUBLIC RULING NO. 1/2023**

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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.**

INLAND REVENUE BOARD OF MALAYSIA

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.

- 3.6 **“Seafarer”** 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 **“Resident”** means resident in Malaysia for the basis year for a year of assessment by virtue of section 7 or 8 of the ITA.
- 3.9 **“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.
- 3.10 **“Basis year”** means the calendar year coinciding with a year of assessment.
- 3.11 **“Vessel”** includes any ship or boat or any other description of vessel used in navigation.

4. Introduction

4.1 Seagoing Ship

4.1.1 Seagoing ship is not defined in the ITA. For the purpose of this PR, a seagoing ship refers to any vessel which sails beyond the port limit. This is in line with the definition of “seagoing ship” under the Merchant Shipping Ordinance (MSO) 1952. Port limit varies depending on each port's bylaws and is controlled by the respective port authority. A seagoing ship is engaged in voyages for the transportation of passengers and cargo. The ship could take many months to reach its destination and may make port calls during its voyage to replenish supplies, fuel and others.

4.1.2 Therefore, a ship sailing in Malaysian waters that does not sail beyond the port limit is not considered as a seagoing ship.

4.1.3 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;
- (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.

Example 1:

Kapal Sri Langkat is operated by Samudera Shipping Sdn Bhd, a company which has a headquarter in Sibulorong Port and resides in Malaysia. Kapal Sri Langkat sails between Sibulorong Port and Kuching Port to carry out its trade operations.

Kapal Sri Langkat is not considered as seagoing ship because it does not exceed the port limit determined according to the bylaws of the respective ports. This ship only sails in Malaysian waters and still within the port limits.

Example 2:

Kapal Eagle is owned by Langkawi Services Sdn Bhd and operates in Pulau Langkawi, Malaysia. Kapal Eagle provides cruise services from Pulau Langkawi to Satun, Thailand and sails back to Pulau Langkawi.

Kapal Eagle does not meet the definition of a seagoing ship because this vessel carries out the function of a ferry.

4.2 Seafarer

In order to qualify as a seafarer, a person has to undergo courses and training at maritime academy. Upon completion of the course and training, a certificate of qualification as a seafarer and a seaman card will be issued. The card enables him to apply for a job on board a vessel.

A seafarer who is employed to serve on board a ship will sail on board for months and make port calls at different countries on the voyage. His employment is mainly exercised on the ships in the open ocean.

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

- (i) pilot¹
- (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.

¹A 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 or aircraft 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 3

Adib, 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.

Adib's employment income on board the ship is deemed to be derived from Malaysia under paragraph 13(2)(e) of the ITA because Adib's income is related to the employment carried out on board a ship used in the business of Armada Shipping Sdn Bhd, which is resident in Malaysia. Hence, the income is subject to tax in Malaysia.

Example 4

Ernesto, 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.

Ernesto's employment income on board the ship is deemed to be derived from Malaysia under paragraph 13(2)(e) of the ITA because Ernesto's income is related to the employment carried out on board a ship used in the business of Seamaster Sdn Bhd, which is a resident of 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 5

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

Simon's income from employment is deemed not to be derived from Malaysia because the ship operator is not resident in Malaysia and thus not subject to tax in Malaysia.

Example 6

Dimas, an Indonesia nationality, works as an Oiler on board the *Northern Light* ship 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 Australia. It makes port calls in Malaysia for loading of cargo and replenishing supplies on its voyage.

Dimas's income from employment is deemed not to be derived from Malaysia because the ship operator is not resident in Malaysia and thus 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 MSO 1952.

Example 7

Captain Ariff 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 1952.

For the year 2022, Captain Ariff sailed on Bintang Terang for 10 months to carry out his duties and was paid USD80,000 for that duties.

Captain Ariff is eligible for tax exemption on his employment income under paragraph 34 of Schedule 6 of the ITA because Bintang Terang is a seagoing ship used in the business of transporting cargo. The business is operated by a person resident in Malaysia who is the registered owner of the ship.

Example 8

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 1952. 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.

Saiful was employed by the company as the First Engineer in the Engine Department of Kapal Mubin. Benjie 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 2022, Saiful sailed on Kapal Mubin for 11 months and he was paid USD50,000 for the voyages. Benjie sailed on Flying Fish for 9 months and he was paid USD35,000 for the voyages.

Employee	Name of Ship	Particulars of Ship
Saiful	Kapal Mubin	<ul style="list-style-type: none"> • Malaysian tanker • a sea-going ship • registered under the MSO 1952 • the ship is owned by a business operator who is resident in Malaysia
Benjie	Flying Fish	<ul style="list-style-type: none"> • foreign tanker • a sea-going ship • not registered under MSO 1952 • the ship is chartered by a business operator who is resident in Malaysia

- (a) Saiful'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 1952.
- (b) Benjie's income from exercising his employment on board the ship Flying Fish is also eligible for exemption from tax. Although ship Flying Fish is a chartered foreign ship, the ship is used in a business operated by a person who is a registered owner of a ship under MSO 1952 which is Kapal Mubin and is resident in Malaysia. Hence, his income qualifies for the tax exemption under paragraph 34 of Schedule 6 of the ITA.

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 9

Anuar was employed by Syarikat Maritim Sdn Bhd (SMSB) as a Deck Officer in the year 2022. 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 1952 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	1.1.2022– 31.5.2022	1.6.2022 – 30.6.2022	1.7.2022 – 31.8.2022	1.9.2022 – 31.12.2022
	5 months	1 month	2 months	4 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
Total income from employment = RM120,000				

Year of Assessment 2022

Assignments were carried out in land-based office:

Duration: 1.7.2022 to 31.8.2022 (2 months)

(a) Employment income subject to tax:

$$\frac{2 \text{ months} \times \text{RM}120,000}{12 \text{ months}} = \text{RM}20,000$$

(b) Employment income eligible for exemption from tax:

$$= \text{RM}120,000 - \text{RM}20,000 = \text{RM}100,000$$

Example 10

Faiz, 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 2022. Faiz was advised by the IRBM officer to submit all the relevant documents pertaining to his employment in 2022. The following documents were submitted:

- i) Seaman 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) Faiz was employed as a Chief Cook in the Catering Department on Sea Fortune, a container ship that transports cargo. The ship is owned by Lautan Services Sdn Bhd, a registered owner under MSO 1952 and a company resident in Malaysia. Faiz 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 10.1.2022 to 20.7.2022 and was paid USD25,000 for the voyage.
- (b) After his return from New York, Faiz took a rest before he sought employment with another company. From 1.9.2022 to 30.11.2022, Faiz worked as a steward on board the Bunga Raya ship. Bunga Raya is registered as a **supply vessel** under the MSO 1952. The registered owner of the ship is Kapal Services Sdn Bhd, a company resident in Malaysia. Faiz was paid RM40,000 for his employment on board the Bunga Raya.

Tax treatment

- (i) Faiz'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 1952.
- (ii) Faiz's income from his employment on board the Bunga Raya is subject to tax as it is not a seagoing ship.

6.3 Employment with an operator who is not a registered owner of a ship under the MSO 1952

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 1952, the exemption of income from tax as provided under paragraph 34 Schedule 6 of the ITA would not apply to his employment income.

Example 11

Ravi, a Malaysian citizen seafarer, serves on 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 1952.

Ravi's income that is derived from employment on board the Seagull is not eligible for exemption from tax under paragraph 34 of Schedule 6 of the ITA because Ocean Shipping Sdn Bhd is not the registered owner of any vessel under the MSO 1952 even though the company is a company resident in Malaysia.

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 from an employment exercised on board a ship operating in international waters is the income taxable in the country of the ship operator.

Reference to the relevant Double Taxation Agreement with the respective country shall be made for certainty.

8. Documents Required For Verification

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

- (a) seaman 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
 - (vi) other related documents
- (d) registration certificate of the ship or a ship under the MSO 1952 – 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 tax exemption, his employer has to comply with the tax deduction from remuneration process under the Monthly Tax Deduction schedule.

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

10. Updates and Amendments

	Updates and Amendments	
This PR replaces PR No. 12/ 2016 dated 9 December 2016	The content of this PR has been amended and updated as follows:	
	Paragraph	Explanation
	3	Paragraph 3.6 is updated Paragraph 3.8 is removed
	4	Paragraph 4.1 is updated - New subparagraphs 4.1.1, 4.1.2 and 4.1.3 are added
		Paragraph 4.2 is updated
	5	Paragraphs 5.1 and 5.2- number of example and sentence are updated
	6	Paragraphs 6.1, 6.2 and 6.3 <ul style="list-style-type: none"> • number of example and sentence are updated • dates in the example are amended to the latest year
	7	Paragraph 7 is updated
	8	Paragraph 8 is updated
	9	Paragraph 9 is updated
	10	Paragraph 10 is added
	11	Paragraph 11 is added



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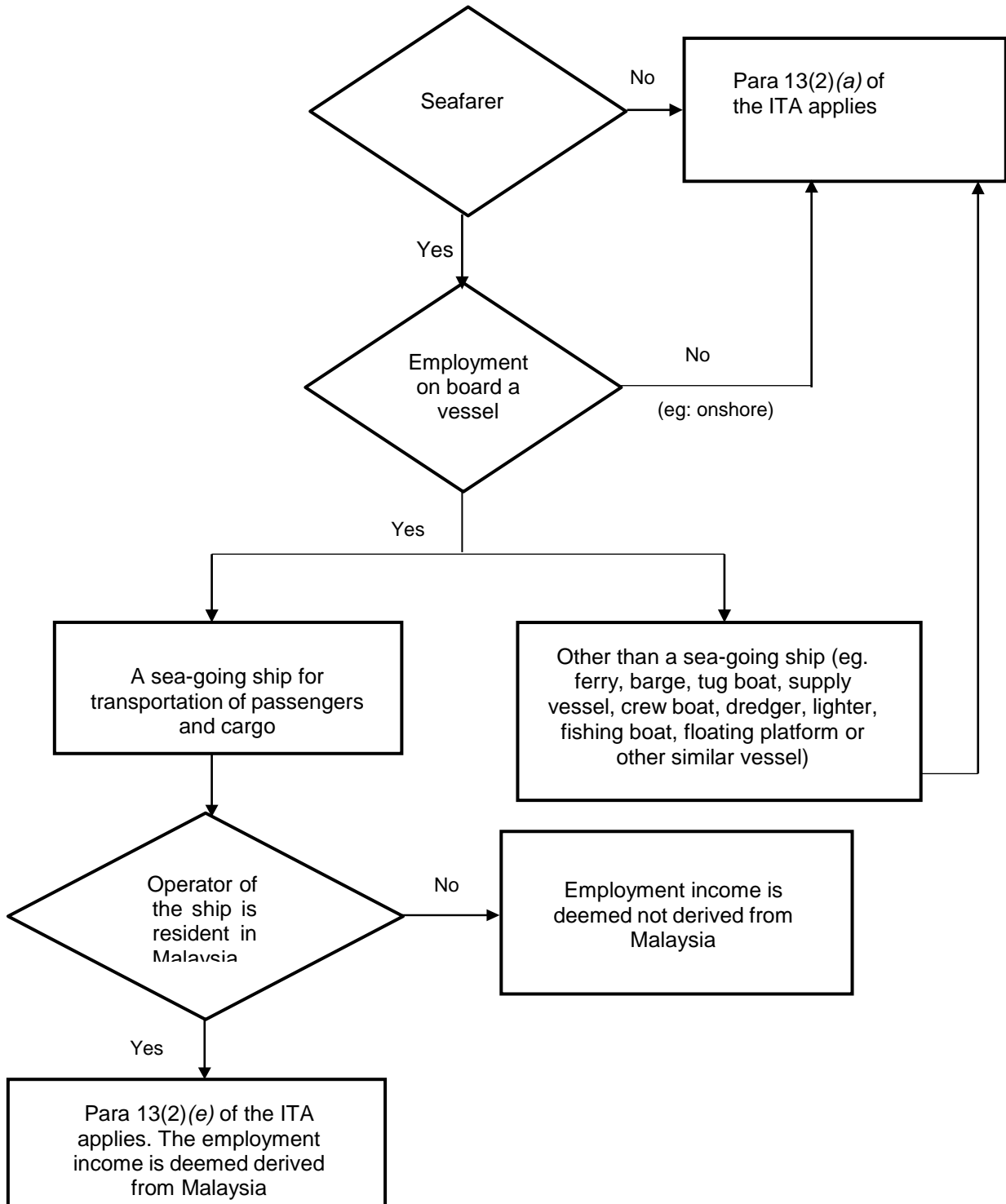
11. Disclaimer

The examples in this PR are for illustrative purposes only and are not exhaustive.

**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

