

UNOFFICIAL TRANSLATION (Inatsisartutlov nr. 3 af 30. november 2009 om ændring af landstingslov om indkomstskat)

The following is a translation of an original Danish document. The original Danish document is the governing document for all purposes, and in case of any discrepancy, the Danish wording will be applicable.

Greenland Parliament Act no. 3 of 30 November 2009 to amend the Greenland Landsting Act on Income Tax

(Tax liability in relation to mineral resource activities, more stringent taxation of company cars, transfer of tax amortisations/depreciations and extended withholding obligations)

Section 1

The following amendments shall be made to Greenland Landsting Act no. 12 of 2 November 2006 on Income Tax, as most recently amended by Greenland Landsting Act no. 9 of 5 December 2008:

1. The following shall be inserted in section 2 as subsections (2)-(5):

"(2). Enterprises awarded a licence under the Greenland Parliament Act on mineral resources and mineral resource activities and which earn income from prospecting, exploration and exploitation of mineral resources, including seismic surveys, construction of pipelines, utility services and shipping and pipeline transport of recovered hydrocarbons are subject to tax as non-residents on income from such activity or work carried out in Greenland, including in Greenlandic territorial waters and the Greenland continental shelf area. The income is calculated in accordance with the rules applying to permanent establishments, cf. subsection (1) para. 10 and the rules in subsection (6).

(3) Enterprises which earn income from exploration and exploitation of mineral resources, including seismic surveys, construction of pipelines, utility services and shipping and pipeline transport of recovered hydrocarbons are subject to tax as non-residents on income from such activity or work carried out in Greenland, including in Greenlandic territorial waters and the Greenland continental shelf area. The income is calculated in accordance with the rules applying to permanent establishments, cf. subsection (1) para. 10 and the rules in subsection (6).

(4) The provisions in subsection (3) shall not apply unless the income is earned from work, advisory services or similar activities carried out in one or more periods which in total exceed 30 days over a 12-month period. Where the activity is carried out by an enterprise which is related to another enterprise, the activity shall be deemed as carried out by the related enterprise if the activity in question is essentially the same as the activity carried out by the latter enterprise.

(5) The provisions in subsection (1) paras. 1-5, para. 8 and subsection (6) also apply to Greenlandic territorial waters and continental shelf area. Persons who do not fall within the scope of section 1(1) and (2) and who earn income for personal work performed on board ships, aircrafts, offshore facilities, etc. related to prospecting, exploration and exploitation of mineral resources, including seismic surveys, construction of pipelines, utility services and shipping and pipeline

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transport of recovered hydrocarbons, etc. in Greenland, including Greenlandic territorial waters and the Greenland continental shelf area shall be subject to tax as non-residents. The income is calculated in accordance with the rules in subsection (6)."

Subsection (2) will subsequently become subsection (6).

2. In section 19(2) "DKK 40,000" shall be changed to: "DKK 60,000".

3. In section 19(3) "DKK 20,000" shall be changed to: "DKK 30,000".

4. In section 19(4) "DKK 10,000" shall be changed to: "DKK 15,000".

5. The following shall be inserted as new section 22 a:

"**Section 22 a.**-(1) Where a company subject to section 1(1) para. 3 has taken amortisations for tax purposes which are less than the rates specified in section 22(2), the company's reserves for amortisation will be reduced to the amounts to which the assets of the company could be written down according to the rates specified in section 22(2) in the following situations:

- 1) where 30 percent or more of the share capital is owned at the income year-end by other shareholders or partners than at the beginning of the income year in question,
- 2) where the division of shares or voting power in the company is changed significantly during the income year compared with the division in the preceding income year,
- 3) where the activities of the company change significantly during the income year compared with the activities in the preceding income year, or
- 4) where the company undergoes a merger, demerger or similar reorganisation.

(2) The provision in subsection (1) will not apply to

- 1) companies in which the shares are listed on a stock exchange, or
- 2) generational handover referred to in sections 57 and 58.

(3) If 25 percent or more of the capital in a company covered by subsection (1) is owned by another company, association or similar (parent company), the shareholders or partners in the parent company, and not the parent company itself, will be deemed to own the capital in the subsidiary according to their pro rata share of the capital in the parent company. This will not apply to parent companies whose shares are listed.

(4) In special circumstances, the Naalakkersuisut (Government of Greenland) or the party so authorised by the Naalakkersuisut may grant dispensation or partial dispensation from the provision in subsection (1)."

6. Section 75(3) para. 2 shall be worded as follows:

"2) Deceased estates, associations or non-profit or charitable institutions not having jurisdiction in Greenland, cf. however section 76(4)."

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7. In section 81(3), the following shall be inserted as second sentence:

"The statements must be prepared in Greenland. The information on which the statements are based and other material relevant for the tax administration's monitoring of payments of income taxed at source must be kept in Greenland. The first and second sentences will not apply where an agreement regarding withholding tax to Greenland has been concluded between the country in which the person obliged to deduct the tax has jurisdiction and Greenland."

8. "Landsstyre" shall be replaced throughout the Landsting Act by: "Naalakkersuisut".

9. "The Greenland Home Rule Government" shall be replaced throughout the Landsting Act by: "Greenland Self-Government" and "of the Greenland Home Rule Government" shall be replaced by: "of the Greenland Self-Government".

10. "Landstinget" shall be replaced throughout the Landsting Act by: "Inatsisartut".

11. "The landsting assembly" shall be replaced throughout the Landsting Act by: "assembly"

Section 2-(1) This Act shall enter into force on 1 January 2010, cf. however subsection (2).

(2) The provision in No. 5 of the Bill shall enter into force on 25 September 2009.

(3) Enterprises subject to section 2(2) of the Greenland Landsting Act on Income Tax pursuant to section 1,1. of this Act which - prior to the commencement of the Act - have incurred expenses in connection with prospecting, exploration and exploitation of mineral resources in Greenland, including Greenland's territorial waters and Greenland continental shelf, can calculate the taxable income for tax year 2009 and previous income years as one. The income is calculated in accordance with the rules applying to permanent establishments, cf. section 2(1) para. 10 and the rules in section 2(6). Any losses so calculated can be carried forward in accordance with the rules in section 30 for offset in the taxable income. The provisions in Greenland Landsting Act on Income Tax and the Greenland Landsting Act on Administration of Taxes also apply mutatis mutandis.

Greenland Self-Government, 30 November 2009

Kuupik Kleist

/ Palle Christiansen