

UNOFFICIAL TRANSLATION (Landstingslov nr. 12 af 2. november 2006 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 Landsting Act No. 12 of 2 November 2006 on Income Tax**

**Part 1**

*Tax liability*

**Section 1.**-(1) The following are subject to tax as residents:

- 1) individuals who are domiciled in Greenland,
- 2) individuals who are not domiciled in Greenland but remain in the country for at least 6 months including short stays outside Greenland for holidays, etc.,
- 3) public and private limited companies registered as domiciled in Greenland,
- 4) other companies domiciled in Greenland in which the partners are not personally liable for the obligations of the company and which distribute profits in proportion to the capital subscribed by the partners,
- 5) savings banks domiciled in Greenland,
- 6) consumer cooperatives domiciled in Greenland, meaning associations whose objective is to purchase, procure or produce goods or provide services fully or partly for the private consumption of their members, and which - apart from normal interest on paid-up membership subscriptions - use the revenue generated by the members as the basis for distribution of profits to said members,
- 7) other cooperatives domiciled in Greenland,
- 8) mutual insurance associations domiciled in Greenland which also undertake insurance without any obligation to participate in the mutual liability,
- 9) pension funds domiciled in Greenland,
- 10) other associations domiciled in Greenland whose objective is to receive deposits from their members and to invest such deposits in securities,
- 11) credit unions domiciled in Greenland,
- 12) associations, corporate bodies, foundations, trusts and self-governing institutions domiciled in Greenland which run hotel or catering business. The tax liability applies only to income from hotel or catering business and gains or losses from sale, disposal or surrender of assets which are or have been connected to hotel or catering business.
- 13) funds, foundations, trusts and self-governing institutions domiciled in Greenland and

14) other associations and cooperatives domiciled in Greenland which have income from business activities.

(2) The tax liability for associations, etc. listed in subsection (1), para. 14 only applies to the income of such from business activities. Business income is income from trade or other business activities, including income from operation, leasing or letting of real property. In the event that an association, etc. has been given a right to a share in the profits of a business activity that is not operated by the association itself, the resulting income is also categorised as business income. Profits which an association, etc. generates from supplies to members are not deemed as generated by business activities.

**Section 2.-**(1) The following are subject to tax as non-residents: individuals, corporate forms, funds, associations, etc. specified in section 1(1), paras. 3-14 and deceased estates administered outside Greenland not falling within the scope of section 1(1) which:

- 1) receive any form of payment for work services performed in Greenland or on board ships or aircrafts registered in Greenland unless the work is performed during a stay which does not exceed 60 consecutive days and the individual in question remains employed by an employer who is not resident in Greenland,
- 2) receive any form of payment for work services performed in Greenland after termination of employment, including consideration for entering into a non-competition clause. It is irrelevant that the settlement and/or amount of payment in question is determined by court ruling, court settlement, arbitration or similar,
- 3) receive salary, wages or similar from a Greenland employer where relocation to Greenland is briefly delayed due to moving household effects, traffic conditions or similar,
- 4) receive salary, wages, etc. from a state employer in Greenland where relocation to Greenland is briefly delayed due to short course participation,
- 5) receive a student's grant, salary, etc. during studies or education, etc. from sources in Greenland,
- 6) receive income for activities carried out in Greenland as a professional performer, athlete or similar, including cases where the income does not accrue to the performer or sportsman himself but to another person, etc.,
- 7) receive remuneration of the category referred to in section 75(1), para. 2 for membership of or assistance to boards of directors, committees, commissions, councils, etc. which are domiciled in Greenland,
- 8) receive income from Greenland which is A-income pursuant to section 75(2), para. 1,
- 9) receive dividend from a public or private limited company or cooperative society, etc. which is registered as domiciled in Greenland,

- 10) carry out business with a permanent establishment in Greenland or participate in business activities with a permanent establishment in Greenland or are otherwise entitled to a share in the revenue, profits, etc. of such business,
- 11) carry out professional services from a fixed place of business in Greenland or in order to provide such services remain in Greenland for at least 90 consecutive days, or participate in such business or are otherwise entitled to a share in the revenue, profits, etc. from such business,
- 12) carry out shipping or air transport operations in Greenland territory or regular traffic between a location on Greenlandic territory and a location outside Greenland, or participate in such business or are otherwise entitled to a share in the revenue, profits, etc. of such business,
- 13) receive royalties from a source in Greenland,
- 14) receive income from hiring out or leasing out business operations in Greenland,
- 15) own real property in Greenland or receive income from such in Greenland, or
- 16) receive income as beneficiary in a deceased estate administered in Greenland.

(2) The tax liability under subsection (1) only covers the income and income bases specified therein, and expenses are only deductible to the extent they relate to such income or income bases. Individuals subject to tax under subsection (1), para. 1 are entitled to a deduction of 10 percent of the remuneration up to an annual maximum amount specified by the Landsting (Parliament). The annual deduction referred to in the second sentence is determined by a Landsting Assembly in the first half of the year prior to the calendar year in question.

**Section 3.**-(1) The following are exempt from tax liability:

- 1) The king and the king's spouse and members of the royal house who are children of Danish kings, or for whom apanage have been specified under section 11 of the Constitutional Act of Denmark (grundlovens), as well as their spouses. This also applies to the deceased estates of such.
- 2) the Greenland Home Rule Government (hjemmestyre), municipalities, the state and state enterprises and institutions.
- 3) Diplomatic representatives of foreign states, their staff, their family members and personnel and private servants who are in Greenland will be taxed in accordance with the provisions of the Vienna Convention on Diplomatic Relations.
- 4) Consular representatives of foreign states, their staff, their family members and personnel who are in Greenland will be taxed in accordance with the provisions of the Vienna Convention on Consular Relations.
- 5) Recognized religious communities and religious institutions set up in connection hereto or to the state church.
- 6) Educational, social and cultural institutions that are independent non-profit institutions whose revenues can be used only for the purposes of the institution.

7) Persons and enterprises, etc., covered by Article VII of the Agreement pursuant to the North Atlantic Treaty between the government of the Kingdom of Denmark and the government of the United States of America concerning the defence of Greenland.

8) Associations, corporate bodies, foundations, trusts and self-governing institutions domiciled in Greenland which run catering business in sports halls.

(2) Funds, associations, etc. taxable according to section 1(1), paras. 13 and 14, where the statutory objective of the fund, association, etc. is charitable or non-profit may be fully or partially exempted from taxation. The decision to this effect is made by the Landsstyre.

(3) The taxation of companies and enterprises granted an exploitation licence under The Act on mineral resources and mineral resource activities will be waived to the extent this follows from the licence awarded to the licence-holder.

**Section 4.**-(1) Spouses are jointly taxed on their income if they are both taxable as residents at the income year-end and they either live together at this time or have terminated cohabitation during the income year without being separated.

(2) Where the tax liability of a spouse commences or is terminated during the calendar year, the joint taxation under subsection (1) will only apply for the period during which both spouses are taxable as residents.

**Section 5.**-(1) Children are independent taxpayers.

(2) Where a child has received enjoyment of income or wealth as a gift from his/her parents, step-parents, foster parents or grandparents, the enjoyment of the income or capital return will be taxable for the donor if the donor is taxable as a resident. However, this will only apply until the expiry of the income year in which the child turns 18 years of age or until the child marries.

(3) Where a child who has not turned 15 years at the beginning of the income year has employment in a business run by his/her parents, step-parents, foster parents or grandparents, the latter may not deduct the wages to the child in the taxable income, nor are the wages included in the taxable income of the child.

(4) Amounts which parents, step-parents, foster parents or grandparents have given a child as full or partial upkeep shall not be included in the income of the child unless the payments are maintenance payments or payment for work in a business owned by one of the donors and are deductible in the taxable income of the latter.

## Part 2

### *Scope of tax liability, commencement and termination*

**Section 6.**-(1) The tax liability exists with the derogations specified by the following provisions during the period in which the criteria for tax liability in section 1 or section 2 are satisfied.

**Section 7.**-(1) For an individual who acquires a residence in Greenland without taking up residence in Greenland, tax liability under section 1(1), para. 1 commences when the individual takes up residence in Greenland apart from short stays due to holidays, etc.

**Section 8.**-(1) For individuals mentioned in section 1(1), para. 2, tax liability commences at the beginning of the stay in Greenland which gives rise to tax liability.

(2) For individuals who stay in Greenland as tourists or for study purposes and who do not operate business activity in Greenland during their stay and who remain subject to income tax in Denmark, the Faroe Islands or their country of residence under the rules for individuals resident in the country in question, tax liability under section 1(1), para. 2 commences when the stay in Greenland with or without interruption has lasted more than 365 days within a total period of 2 years.

**Section 9.**-(1) Where an individual subject to tax in Greenland dies, tax liability ceases at death.

**Section 10.**-(1) Where the surviving spouse takes over the community property in connection with the death in order to retain undivided possession of the property, the surviving spouse shall be liable to income tax for the whole of the income year in which the death took place on all income which the spouses have acquired in the income year in question. The surviving spouse assumes the tax position of the deceased.

(2) Where an estate is appropriated without administration to the surviving spouse after the latter has exercised his/her special rights under the Greenland Inheritance Act (arvelov for Grønland), the provisions in subsection (1) shall apply mutatis mutandis.

**Section 11.**-(1) Where the estate of a taxpayer in Greenland is divided in connection with death, the income tax of the deceased in the income year in which the death occurred is finally settled by the payment of the preliminary income tax amount due before death or which should have been withheld on income earned before that time.

(2) Both the tax administration (skatteforvaltning) and the estate may request that a final assessment of the income earned by the deceased be made for the period from the beginning of the income year until death. Should the calculated final tax for the period from the beginning of the income year until death exceed the sum of the preliminary income tax amount due before death or which should have been withheld on income earned before that date by at least DKK4,000, the estate shall pay the outstanding

amount of tax. Where the sum of the preliminary amount of tax referred to exceeds the final tax by at least DKK 500, the estate is entitled to request reimbursement of the overpaid amount.

(3) The tax administration must raise the demand for a final tax assessment under subsection (2) against the estate within 3 months of the death. Where the information under section 108(9) is received later than 1 month after the death, the demand may be raised up to 2 months after receipt of the information.

(4) Where the estate requests a final tax assessment under subsection (2), the estate must notify the tax administration of this within 3 months of the death.

(5) In the cases referred to in subsections (3) and (4), the estate must submit a normal tax return within 5 months of the death. Where the request under subsection (3), second sentence is raised later than 3 months after the death, the time limit will be extended to a maximum of 2 months after the request for a final tax assessment

(6) In the final tax assessment under subsection (2) assets that may be subject to tax depreciation will be treated in accordance with the rules on tax depreciations.

(7) Trading and speculative assets will be treated in the final tax assessment under subsection (2) as disposed of by the deceased on the date of death. The market value on the date of death will be the deemed consideration.

(8) The rules in subsection (1) apply *mutatis mutandis* where the estate is of little value and is not subject to division.

### **Part 3**

#### *Taxable income*

**Section 12.**-(1) Taxable income is calculated on the basis of the income in the income year. The income year is the calendar year prior to the assessment. Where tax liability only applies for part of a year, the income year will be that period of time. Where the tax assessment covers a shorter period than one year, and the taxpayer is entitled to tax allowances, including personal allowances which are specified by annual amounts, only a proportionate share of the annual allowances will be granted.

(2) The tax administration may permit companies, associations, etc. who so request to use an income year which does not follow the calendar year. The income year thus elected cannot be subsequently changed without permission from the tax administration. It is a condition for approval of a tax year differing from the calendar year that it begins on the first day of a month. In the permission, the tax administration may lay down specific deadlines for submission of tax returns and payment of assessed tax.

**Section 13.**-(1) Taxable income includes - with the exemptions and restrictions laid down by this Landsting Act - the taxpayer's aggregate annual income regardless of whether the income is derived from Greenland or not, or whether it consists of money or assets of monetary value.

(2) Remuneration for work services in an employment relationship is subject to income tax in the income year in which payment is made. Where the income recipient's tax liability terminates before payment of the remuneration, income tax is liable on the remuneration no later than at termination of tax liability.

**Section 14.**-(1) Taxable income includes:

- 1) Income from any kind of commercial activity, for example, income from trade, industry, crafts, shipping, fishing, trapping, hunting, sheep farming, income from participation in a partnership, shipping partnership, limited partnership or limited partnership company or as beneficiary in a deceased estate under public or private administration, remuneration for scientific, artistic or literary work, or for work, services or assistance of any kind.
- 2) Income from lease or rent, pension, annuity and survivors' pensions, income from benefits and maintenance payments, income from free use of property of others and gifts, cf. however section 34(1), para. 3, income by way of interest on bonds and other outstanding claims.
- 3) Income by way of dividend on shares, cf. however section 86, unit certificates and similar securities, cf. however section 34(1), para. 7. Dividend on share certificates is any payment that the company makes to shareholders as share of profit earned by the company in the last or prior income years whether payment is made as dividend or distribution upon liquidation of the company.
- 4) Value of home on own property, cf. however section 34(1), para. 5. The value is determined by the housing valuation rules, etc. in force in Greenland.

**Section 15.**-(1) Interest is taxed or deducted in the income year in which the interest is due for payment. However, interest expenses due for prior years are deductible in the income year to which they relate, cf. section 12(1). Where the debtor lacks the financial ability to pay due interest, the interest will not be taxed or deducted until the income year in which the interest is paid. The tax administration may for financial enterprises and other enterprises for whom such accounting form is considered normal permit taxation or deduction of interest in the income year which the interest concerns. The procedure thus elected cannot be later changed.

(2) Where tax liability commences or ceases for reasons other than death, the portion of the interest income or interest expenses, etc. relating to the period during which the person is subject to tax is included or deducted in the taxable income. The interest income or interest deduction, etc. is allocated over the period to which it relates. The

allocation only covers interest for the period in which the tax liability commences or ceases.

(3) Consideration for accrued or credited interest in connection with transfer of interest-bearing claims is included in the income of the person who is entitled to the consideration. The consideration is deducted in the income of the person who is obliged to pay the consideration. The consideration is included or deducted in the taxpayer's interest income in the income year in which the transaction is completed. The accrued or credited interest corresponding to the consideration is included in the taxpayer's interest income for the income year in which the interest is due for payment. However, the provisions in this subsection shall not apply to taxpayers who allocate interest expenses and interest income in the manner specified in section 15(1), fourth sentence.

(4) The owner of real property may not include in taxable income any income and expenses, including interest expenses on loans secured by mortgage on real property where this is located outside of Greenland. In special circumstance, the Landstyre may allow the total or partial deduction of losses on real property located outside Greenland.

**Section 16.**-(1) The rules in this subsection on bonds shall apply mutatis mutandis to private mortgage deeds and claims.

- 1) Corporate forms, funds, associations, etc. specified in section 1(1), paras. 3-13 shall include in taxable income gains or losses on disposal, redemption or drawing of bonds.
- 2) Gains or losses on disposal, redemption or drawing of bonds are calculated as the difference between the selling price and the acquisition cost.
- 3) Where redemption is by repayment, gains or losses are calculated so that a percentage is added of each repayment equal to the percentage points by which par exceeds or is less than the acquisition cost.
- 4) The tax administration may permit another calculation method. Where such permission is granted, the permitted calculation method can only be changed by permission from the tax administration, and will only be granted in exceptional cases.

(2) The rules in this subsection on shares shall apply mutatis mutandis to shares in private limited companies, unit certificates and similar securities.

- 1) Corporate forms, funds, associations, etc. specified in section 1(1), paras. 3-13 shall include gains and losses on disposal of shares in taxable income. This also applies to gains or losses on disposal of rights to subscribe for shares and disposal of bonus share rights. However, losses on disposal of shares are only deductible to the extent that they exceed gains on the shares which have been exempted from taxation under section 34, para. 11 and which have not been used to reduce the deductible dividend amount, cf. section 27(4).
- 2) Gains or losses on distribution of liquidation proceeds are taxed in the income year in which the liquidating company is finally dissolved.



3) Gains or losses on disposal are calculated as the difference between the selling price and acquisition cost. The Landsstyre prescribes the rules regarding acquisition date and purchase price of bonus shares and awarded bonus share rights and warrants.

4) The tax administration may permit another calculation method. Where such permission is granted, the permitted calculation method can only be changed by permission from the tax administration, and will only be granted in exceptional cases.

(3) Corporate forms, funds, associations, etc. specified in section 1(1), paras. 3-13 shall include gains and losses on disposal of real property which is not depreciable under section 24(1), para. 1 in taxable income.

1) Gains or losses are calculated as the difference between the selling price and the acquisition cost.

2) The Landsstyre prescribes rules regarding calculation of the sales price and the acquisition cost.

**Section 17.**-(1) Gains on financial contracts are included in taxable income, cf. however subsections (2) and (3). Losses are offset against gains in the same income year, and a net loss can be carried forward for offset against net gains on financial contracts in subsequent years in accordance with the rules in section 30(1), (3) and (4).

(2) Subsection (1) does not apply to:

1) Rights to subscribe for shares, etc.

2) Contracts regarding real property.

3) Sale and purchase of bonds under a forward or future contract for hedging in connection with raising or repaying mortgage loans or mortgage-like loans.

4) Conversion rights related to bonds, mortgage deeds, debt instruments and other debts.

(3) The general rules of the Landsting Act apply to contracts entered into as part of trade or business activities.

(4) Gains or losses under subsection (1) are calculated as the difference between the selling price and the acquisition cost according to the realisation principle.

(5) Under special circumstances, the Landsstyre or the party so authorised by the Landsstyre may permit taxation of the contracts referred to in subsection (1) in accordance with the general rules of the Landsting Act.

**Section 18.**-(1) In calculating taxable income, individuals referred to in section 1(1), paras. 1-2 must include gains on disposal, total or partial redemption or drawing of claims as referred to in subsection (2) unless the claim carries a nominal interest rate which is equal to or higher than the minimum interest determined in subsection (3) at issue of the claim.

(2) Claims are defined here as any monetary claims, including bonds, mortgage deeds, government securities, treasury bills and commercial papers.

(3) The tax administration determines the minimum interest normally for the six-month periods January-June and July-December.

(4) The gain on disposal or redemption of the claim is calculated as the difference between the acquisition cost and the disposal or redemption price. Where redemption is by means of repayment, the gain is calculated so that a percentage of each repayment is added equal to the percentage points by which par exceeds the acquisition cost.

(5) Gains and losses on claims covered by subsection (1) do not fall within the scope of section 34(1), para. 2.

**Section 19.**-(1) In determining the taxable income, the value of a car that is made available for a taxpayer's private use by an employer under an employment relationship or under an agreement on provision of work services, cf. subsections (2)-(8) is included. This also applies to persons elected as member of or assistant to boards, committees, commissions, councils or other bodies, including the Landsstyre, Landsting and municipal councils.

(2) The taxable value of a car subject to subsection (1) is fixed at an annual value of DKK 40,000 if road space in the town in which the car is used for private purposes is 75,000 square meters or more.

(3) Where road space in the town where the car is used privately is between 25,000 square meters and 75,000 square meters, the value mentioned in subsection (2) is reduced to DKK 20,000.

(4) Where road space in the town where the car is used privately is less than 25,000 square meters, the value mentioned in subsection (2) is reduced to DKK 10,000.

(5) Private mileage in workshop vehicles and other special vehicles is valued at half of the rates mentioned in subsections (2)-(4). Where these vehicles are used solely for transport between home and work according to written instructions from an employer, they are valued at 1/4 of the rates mentioned in subsections (2)-(4).

(6) Private mileage in trucks with a gross weight of more than 4 tonnes and in tanks, cranes and refuse collection vehicles is not taxed.

(7) Where the car is only available for part of the year, the taxable value is reduced by the number of days when the vehicle was not available. Where the taxpayer pays for availability of the car, the taxable value will be reduced by the amount paid.

(8) Travel between home and work is not categorised as private use by the taxpayer provided the employer has instructed the taxpayer in writing to perform such travel in connection with on-call services on the condition that the taxpayer does not use the car for other private transport during on-call service.

**Section 20.**-(1) For individuals who are taxable as residents, income not taxed at source (B-income), cf. section 74, and income referred to in section 75(2), para. 2, including gross self-employment income is taxed only to the extent such income exceeds the amount determined in accordance with subsection (2). Married couples are entitled to the tax free amount in accordance with the same rules as apply for personal allowance, cf. section 67(2).

(2) The tax free amount is determined by the Landsting in a Landsting Assembly in the first half of the year prior to the calendar year in question.

**Section 21.**-(1) Individuals who are taxable as residents are entitled to a specified allowance (standard allowance) in the taxable income. Married couples are entitled to a standard allowance in accordance with the same rules as apply for personal allowance, cf. section 67(2).

(2) The standard allowance is determined by the Landsting in a Landsting Assembly in the first half of the year prior to the calendar year in question.

(3) Where a taxpayer proves that the sum of allowances to which he is entitled in the tax return exceeds the specified standard deduction for the income year in question, he will be granted an allowance for the higher amount.

**Section 22.**-(1) In relation to assets which are depreciable under promulgated statutory order on depreciation pursuant to section 24(1), para. 1, companies etc. may write down a maximum amount for tax purposes corresponding to the sum of depreciations allowed under subsection (2) plus an amount equal to half of the company's taxable profits before tax but after tax depreciations, cf. subsections (2) and (5).

(2) The maximum tax depreciation rates allowed in a single year are:

- 1) Up to 5 percent annually of the acquisition cost of buildings and fixtures.
- 2) Up to 10 percent annually of the acquisition cost of ships and planes.
- 3) Other amortisable costs, etc. or acquisition costs of plant and machinery, tools and equipment and intangible assets, etc. can be amortised by up to 30 percent on the basis of the amortisable written-down value at the income year-end.
- 4) Up to 100 percent of the costs or acquisition cost of the assets mentioned in para. 3 if the cost or acquisition cost of the individual asset is DKK 100,000 or less.

(3) Companies must compute a joint account for amortisable expenses and depreciable assets, etc. covered by paras. 3 and 4. Amortisations for the year are made on the basis of the amortisable written-down value at the income year-end. This value is calculated as the written-down value at the beginning of the income year plus amortisable expenses or the acquisition cost of plant and machinery, etc. acquired during the income year minus the sales price of plant and machinery, etc. sold during the income year and depreciations under para. 4. Improvement costs are treated in the

same manner as acquisition costs. The written-down value at the beginning of the income year constitutes the amount to which plant and machinery, etc. acquired or expenses defrayed in previous income years has been reduced by means of depreciation.

(4) To the extent the sale of assets, etc. covered by paras. 3 and 4 result in a negative depreciation balance, the negative balance must be recognised as income in the same income year.

(5) Notwithstanding the rule in subsection (2), a company, etc. may however take tax depreciations corresponding to the estimated taxable profit on disposal of depreciable assets covered by paras. 1 and 2. Where the company's taxable income subsequently shows a loss, the tax depreciations will be reduced by an amount corresponding to the loss.

**Section 23.**-(1) An individual subject to tax under section 1(1), paras. 1 and 2, or subject to tax as a non-resident under section 2 can at maximum take tax depreciations corresponding to self-employment income in accordance with the rules of the Home Rule Order on tax depreciations, cf. section 24(1), second sentence.

**Section 24.**-(1) In determining the taxable income, the following are deductible:

- 1) operating expenses, meaning the costs which in the course of the year are incurred to acquire, secure and maintain the income, including tax depreciations. The Landsstyre determines the rules on tax depreciation/amortisation and the tax treatment of gains or losses on disposal, etc. of depreciable assets,
- 2) costs incurred to maintain or secure the property of the taxpayer if the gain on such is assessed as income, and
- 3) interest and periodic commission on debt.

(2) Prizes which are raffled off by banks to holders of prize accounts under the Act on prize savings (lov om gevinstopsparing) are not deductible in the bank's taxable income.

**Section 25.**-(1) For a taxpayer who carries out more advanced processing of mineral resources in Greenland than is normally the case for such exploitation activities, the Landsstyre may specify rules on a special annual deduction up to 10 percent of the direct investment in assets for secondary treatment of the crude products from the exploitation activities.

**Section 26.**-(1) The following maintenance payments due and paid during the period of tax liability are deductible in the taxable income of the payer:

- 1) Maintenance payments which due to divorce or legal separation are paid by one spouse to the other spouse or children, provided that the spouse or children are not living with the payer.
- 2) Maintenance payments which due to de facto separation are paid by one spouse to the other spouse or to children who are not living with the payer.

3) Maintenance payments paid to children out of wedlock who are not living with the payer.

(2) Maintenance payments are only deductible if the taxpayer has a duty under public law to support or pay maintenance for the child.

(3) Maintenance payments referred to in subsection (1), para. 1 are deductible from the date of divorce or separation. Maintenance payments referred to in subsection (1), para. 2 are deductible from the date of separation.

(4) Maintenance payments are included in the taxable income of the receiving spouse or child from the time referred to in subsection (3).

(5) The tax administration may disregard the agreed or fixed allocation of maintenance payments to a spouse and children. The tax administration can set aside a maintenance agreement where it is considered manifestly unreasonable, and it is evident for specific reasons that the agreement was not made for maintenance purposes.

**Section 27.**-(1) Companies, co-operative societies and cooperatives covered by section 1(1), paras. 3, 4, 6 and 7 can deduct from taxable income dividend which is paid to shareholders or members as a share of profit earned in the preceding or previous income years. This also applies where associations referred to in section 1(1), para. 10 distribute earned interest and dividend to members as share of profit earned in the preceding or previous income years.

(2) However, dividend from which dividend tax has been withheld under section 87 is not deductible in taxable income.

(3) The tax administration may allow and prescribe terms that dividend paid to shareholders or members as share of profit earned in the preceding or previous income years is deductible in the taxable income in previous years. An application must be submitted to the tax administration when submitting the income tax return.

(4) Where companies referred to in subsection (1) have received dividend which has been exempted from taxation under section 34, para. 11, the deductible amount of dividend, etc. in subsections (1) and (3) will be reduced by the received amount of tax-free dividend. The reduction must be made in the income year in which the dividend is distributed. Where it is not possible to make the total reduction in the income year in question, the reduction will be carried over to a later income year if the distributed dividend in a previous year is insufficient to offset the amount.

(5) Companies, etc. referred to in subsection (1) which have received dividend which has been exempted from taxation under section 34, para. 11 must enclose with the income tax return a calculation of the amount of dividend and of how much of this dividend is used to reduce the deductible dividend, etc. in subsections (1) and (2) or used to limit losses on sale of shares, cf. section 16(2), para. 1.

(6) Where the reduction according to subsection (4) and section 16(2), para. 1 is not fully made, the excess subsidiary dividend must be included in the taxable income of the parent company in the income year in which the parent company is finally liquidated or at the latest at termination of the parent company's tax liability under section 1, or on changeover to taxation according to section 3(1), or exemption from tax under section 3(2) or 3(3).

**Section 28.**-(1) In determining the taxable income, insurance companies may deduct amounts allocated to cover obligations entered into for insured parties (premium reserve and claims reserve) or bonus funds. Insurance companies may also deduct amounts allocated to security funds provided it is stipulated in the company's articles of association that the security funds can only be used to strengthen the premium reserve or in another manner for the benefit of the insured parties.

(2) In determining the taxable income, credit unions referred to in section 1(1), para. 11 may deduct provisions to cover the minimum reserves as established by legislation on credit unions in Greenland.

(3) In determining the taxable income, pension funds referred to in section 1(1), para. 9 may deduct provisions to cover commitments to members.

**Section 29.**-(1) In determining the taxable income, companies and business entities which have been granted an exploitation licence under the Act on mineral resources and mineral resource activities can deduct amounts which have been set aside to financially ensure that a closure plan approved in the licence can be carried out.

(2) A condition for the right to deduct is that the terms and conditions for collateral, etc. specified in the licence have been satisfied.

(3) Where it is later ascertained that the amount deducted for closure costs is too great, the excess amount deducted will be taxed in the income year in which this is ascertained.

(4) Where the licence-holder's tax liability terminates, the amount mentioned in subsection (3) is taxable at latest at termination of tax liability.

**Section 30.**-(1) Where the taxable income for an income year shows a loss, the loss may be deducted from the taxable income for the next following 5 income years. Within this period, however, the deduction can only be carried over to a later income year if it cannot be offset against the taxable income in a previous year.

(2) Loss carry forward under subsection (1) does not apply to losses ascertained in a bankruptcy, receivership or similar if it is anticipated that the taxpayer will not be able to pay the debt corresponding to the losses. Where the debt or part of the debt is paid later, the losses corresponding to the paid debt will be deductible in the year of payment.

(3) The debt cancelled under a composition, debt forgiveness, debt relief or similar shall be offset in full in the tax losses carry forward under subsection (1) unless the cancelled amount is taxable.

(4) Losses in companies covered by section 1(1), para. 3 shall not be carried forward under subsection (1) if there are substantial changes in the group of owners, significant changes in the allocation of shares or voting rights between individual shareholders or significant changes to the company's activities in relation to the period to which the losses are attributable. Any party for whom it is deemed important can obtain a binding advance ruling from the tax administration on whether a company's losses can be carried forward.

(5) The Landsstyre or the party so authorised by the Landsstyre may grant dispensation or partial dispensation from the provision in subsection (4) under special circumstances.

(6) Where the calculated losses for an income year cannot be used within the following 5 income years referred to in subsection (1), the tax administration may allow or prescribe specific conditions that such unused losses can be deducted from the taxable income for the preceding 5 income years. However, within this period the deduction can only be carried back to a previous income year if it cannot be offset against the taxable income in a later year. The first and second sentences also apply to cases where the taxpayer can show that the losses cannot be used in accordance with the rules in subsection (1). The conditions in subsections (2)-(5) also apply to tax loss carry-back. Overpaid taxes will be repaid without any compensation or interest, cf. sections 25 and 27 of the Landsting Act on Administration of Taxes (landstingslov om forvaltning af skatter).

(7) The provisions in subsections (3)-(6) apply mutatis mutandis to corporate forms, etc. referred to in section 1(1), paras. 4-13.

(8) A taxpayer who has been granted an exploitation or exploitation licence under the Act on mineral resources and mineral resource activities will not be subject to the time limitation of 5 years for carry forward of losses in subsection (1), first sentence, with regard to the losses covered by the licence.

**Section 31.**-(1) Losses arising from participation by individuals as limited partners in limited partnerships, part owners of shipping partnerships or similar operating outside Greenland are not deductible against other income. This also applies to partners in partnerships in which there are more than 10 participants, and the taxpayer does not participate in the operations to any major extent.

(2) Losses under subsection (1) may however be carried forward for offset against positive income in a later income year from the same activity in accordance with the rules in section 30(1), (3) and (6).

(3) Under special circumstances, the Landsstyre or the party so authorised by the Landsstyre may allow full or partial deduction of losses covered by subsection (1).

**Section 32.**-(1) The taxable income of an individual, company, etc., which in an income year is liable to tax under several of the provisions in section 2(1), including several permanent establishments cannot be aggregated, but must be calculated for each income, location, activity, etc. which is the basis for the tax liability.

(2) Carry forward and carry back of losses under section 30 for the persons referred to in subsection (1) is only allowed in taxable income for the same location, activity, etc.

(3) A taxpayer who has been granted exploration or exploitation licences under the Act on mineral resources and mineral resource activities will not be subject to subsections (1) and (2) for the activities directly covered by the licences.

**Section 33.**-(1) The surcharges on underpaid tax and tax referred to in sections 24 and 27 of the Landsting Act on Administration of Taxes (landstingslov om forvaltning af skatter) are not deductible in taxable income. The refund of overpaid tax referred to in section 25 of the Landsting Act on Administration of Taxes and interest on overpaid tax referred to in section 27 of said Act are not included in the taxable income.

**Section 34.**-(1) In determining the taxable income, the following are disregarded:

- 1) increase or decrease in wealth as a result of changes in the value of a taxpayer's possessions,
- 2) gains or losses from sale of a taxpayer's possessions. However, this does not apply to the sale of depreciable assets and possessions acquired by the taxpayer for speculative or trading purposes,
- 3) gifts to a spouse who is jointly taxed with the giver, to the giver's children, stepchildren and their issue, spouse of deceased child or stepchild (not separated or divorced) and to his parents, step-parents and grandparents,
- 4) increase in wealth due to inheritance or advancement or marriage,
- 5) value of private use of own possessions, including value of housing on own property, with regard to property that only contains one self-contained apartment which serves as residence for the owner, unless a substantial part of the property is used for the owner's business activities,
- 6) value of private consumption of products originating from the taxpayer's hunting, trapping and fishing activities,
- 7) dividend from co-operative societies referred to in section 1(1), para. 6,



- 8) unemployment benefits and travel allowance to cover transport and additional expenses for accommodation and meals during travel (temporary stay away from home in Greenland) paid while performing public duties or under the rules applicable for public servants in Greenland,
- 9) premiums which a company subject to section 1(1), paras. 3 or 4 earns from the issue of shares or by increase in its share capital,
- 10) public assistance granted:
  - a) ) on an individual assessment basis as supplement to social pensions, including child benefits,
  - b) as one-off assistance, assistance with removal costs, allowance towards funeral expenses, home care and repatriation allowance,
  - c) as housing subsidy,
  - d) as help to children and young people,
  - e) as assistance to people with severe disabilities,
  - f) as a special subsidy as a one-off payment for rehabilitation.
- 11) Dividend which companies, etc. referred to in section 1(1), paras. 3, 4, 6, 7 and 9 receive on shares in companies domiciled abroad. However, this applies only if the dividend-receiving company, the parent company, owns at least 25 percent of the share capital in the dividend-paying company, the subsidiary, for a continuous period of at least one year within which the dividend payment date must fall.
- 12) child benefits under the Landsting Regulation on child benefits, supplementary child benefits under the Landsting Regulation on educational grants, grants under the Landsting Regulation on grants to students registered in senior classes of the *Folkeskole* (primary and lower secondary school), as well as education grants to children as provided under the applicable rules for public servants in Greenland,
- 13) anniversary bonuses to private or public employees granted under the rules applicable for public servants in Greenland,
- 14) relocation allowances to private or public employees granted under the rules applicable for public servants in Greenland,
- 15) value of free travel home for private or public employees granted under the rules applicable for public servants in Greenland. However, tax exempt free travel under this provision only covers 1 annual free holiday trip, and
- 16) premiums and winnings from premium bonds, lotteries, pools, etc., on which tax is payable to the Danish Treasury.

**Section 35.**-(1) Amounts which the Deposit Guarantee Fund (Indskydergarantifonden) pays to a bank for full or partial settlement of an accounting deficit in connection with transfer of assets and liabilities from one financial institution to another are not included in the taxable income. The part of the deficit which is covered by a grant or a guarantee from the Deposit Guarantee Fund cannot subsequently be deemed part of the transferred bank's acquisition cost for the transferred assets.

(2) Where the Deposit Guarantee Fund has paid out amounts covered by subsection (1) or provided guarantees which could result in payments of amounts covered by subsection (1), and a transferring company subject to subsection (1) commences a new activity, a loss from previous income years shall not be deducted in the taxable income for that income year or later income years, and the losses for the income year in question shall not be deducted in taxable income in later income years.

**Section 36.**-(1) Where a business in Greenland, or a business with a permanent establishment, professional services and shipping and aviation operations in Greenland, cf. section 2(1), paras. 10-12, which is controlled by a company outside Greenland is subject in its transactions or economic relations with the controlling company to other terms and conditions than would apply for an independent entity, the profit that this company would presumably have earned had it been an independent entity which carried out transactions with the foreign company in question under free terms and conditions shall be added to the profits of the company in Greenland.

(2) Individuals or companies who are subject to tax under section 2(1), paras. 10-12 may deduct in addition to expenses which directly relate to the permanent establishment, etc. a reasonable amount of any joint management and general administration costs regardless of whether they are paid in Greenland or abroad.

(3) Where it is not possible to directly calculate the income of an individual or company subject to tax under section 2(1), paras. 10-12, the income will be assessed based on an estimate of the income from a similar company, etc. after allocation of the total profit, etc. The same shall apply where the directly calculated income with any deductions under subsection (2) is not regarded as a reasonable measure of the income from the permanent establishment, etc.

(4) For foreign insurance companies carrying on insurance business in Greenland, the income in Greenland is determined as the portion of the company's aggregate income calculated in accordance with the general tax rules which falls on the gross premium income in Greenland according to the ratio between the gross premium income in Greenland and the aggregate gross premium income. The tax administration may permit another calculation method in special circumstances.

(5) For foreign credit unions carrying on lending business in Greenland, the income in Greenland is determined as the portion of the company's aggregate income calculated in accordance with the general tax rules which falls on the gross premium income in Greenland according to the ratio between the outstanding loans in Greenland and the aggregate outstanding loans. The tax administration may permit another calculation method in special circumstances.

**Section 37.**-(1) In determining the profits and losses on the assets and possessions referred to in section 34, para. 2, second sentence, no deduction is allowed as a result of the sales price not being paid in cash.

(2) This also applies to the taxable gains and losses referred to in section 16(2)-(4).

(3) This also applies to the taxable gains referred to in section 17 and section 18.

**Section 38.**-(1) Securities covered by section 16(1) and (2) and possessions acquired by the taxpayer for speculative or trading purposes, cf. section 34, para. 2, are deemed as disposed of at the latest at termination of tax liability under section 1 or section 2(1).

(2) Financial contracts subject to section 17(1) are deemed to be disposed of at the latest at termination of tax liability under section 1(1), paras. 1 and 2.

(3) Claims subject to section 18(1) are deemed to be disposed of at the latest at termination of tax liability under section 1(1), paras. 1 and 2.

(4) The market value at termination of tax liability is the deemed selling price of the financial assets referred to in subsection (1)-(3).

(5) The market value at commencement of tax liability is the deemed acquisition cost of the financial assets referred to in subsections (1)-(3).

## **Part 4**

### *Pension schemes*

**Section 39.**-(1) Contributions and premiums to pension and life insurance schemes with periodic life-long benefits which lapse on death, including spouse's or partner's pension and orphans' pensions and periodic disability pensions are deductible in the taxable income. The following conditions must however be satisfied:

- 1) The scheme must be set up in a pension fund subject to the Insurance Act (lov om forsikringsvirksomhed). The scheme can also be set up in a life and pension insurance company that the Financial Supervisory Authority has authorised to carry out insurance business.
- 2) In relation to old-age pensions where the benefits are composed of a lifelong part and a supplementary non-lifelong part, the payments from the supplementary part shall not exceed 50 percent of the payments from the lifelong part of the pension.
- 3) Old-age pensions shall not be paid out before the age of 60 years unless a lower age is approved by the tax administration.
- 4) Pensions of spouses or partners may accrue to the surviving spouse, divorced spouse or partner. A partner means a named person who had shared residence with the deceased at the time of appointment, or a person with whom the deceased could have entered into marriage or registered partnership to whom the deceased in a will made

within three months prior to death has assigned an inheritance of at least the same amount as the statutory share which would fall to a spouse under the Inheritance Act (arveloven) and who has shared a joint residence with the deceased for a continuous period of at least two years prior to death and the joint residence ended only because of moving to an institution or to senior housing.

5) Pension to a surviving spouse, divorced spouse or cohabiting partner shall have a duration of at least 10 years.

6) Pension to surviving children of a deceased person, including step-children shall not run for longer than to when the children turn 24 years of age.

7) Pension funds and life insurance schemes set up in Danish pension funds and life or pension insurance companies must not be subject to section 53A of the Act on Taxation of Pensions (lov om beskatning af pensionsordninger m.v.).

(2) In the case of a life insurance policy, the insured person must be insured by and owner of the insurance policy.

(3) Where the annual lifelong benefit does not exceed DKK 6,000, the benefit from the pension schemes referred to in subsection (1) which are established during the course of employment may be paid out as a lump sum.

(4) An amount equal to 2 years' periodic benefits from pension schemes set up in pension funds or life and pension insurance companies established in Greenland and which were set up in an employment relationship may be paid out as a lump sum.

**Section 40.**-(1) Premiums to an annuity insurance for pension purposes containing provisions that the insurance sum will be paid out in equal instalments over at least 10 years and that instalments paid out while the insured person is alive will accrue to the insured person are deductible in the taxable income. The following conditions must however be satisfied:

1) The policy must be set up in a life or pension insurance company established in Greenland which has been licenced by the Financial Supervisory Authority to carry out insurance business.

2) After the insured person turns 60 years, a policy may only be taken out as a supplement to a policy set up before this age and only with an insurance sum that does not exceed half of the agreed insurance sum under the previous policy at the same time of disbursement.

3) The policy holder must be insured by and owner of the insurance. Where the insurance is taken out by agreement between employee and employer and premiums are paid in by the employer, the employee shall be insured by and owner of the insurance.

4) The due date of the last instalment shall not be later than the first policy date after the insured person turns 80 years of age. Benefit payments shall not begin until the insured person reaches the age of 60 years unless a lower age is approved by the tax

administration. It may, however, also be agreed that the disbursements will begin in the event of disability or death of the insured person before the age of 60 years.

(2) Beneficiaries other than the "next of kin" of the insured person, cf. section 105(5) of the Act on insurance contracts (lov om forsikringsaftaler), or the spouse, divorced spouse, a named person who has shared residence with the insured person on appointment, issue of the insured person, step-children or issue of step-children of the insured person shall not be inserted as beneficiary in the policy.

**Section 41.**-(1) Deductions for contributions and premiums paid into the schemes referred to in sections 39 and 40 shall be allocated to the premium period which they cover, and the deductions shall not exceed 15 percent of the aggregate salary income in that part of the income year to which the contribution or premium relates. For jointly assessed spouses or registered partners, the deduction shall not exceed 15 percent of their aggregate salary income. For self-employed the basis of calculation is determined according to an estimated income for a similar employed person.

(2) Amounts paid by an employer to schemes referred to in sections 39 and 40 are not included in the employee's taxable income.

(3) Where in an income year payments have been made to a pension scheme with periodic benefits, cf. section 39, or to an annuity insurance, cf. section 40, exceeding 15 percent of the aggregate earned income, cf. subsection (1), the tax administration may allow a refund of the excess amount in special circumstances.

**Section 42.**-(1) Taxable income includes:

- 1) pension benefits from a pension scheme with periodic disbursements, cf. section 39(1) and disbursements of a capital sum under section 39(3) and (4) to the owner, owner's spouse or partner, including divorced spouse and issue, step-children or issue of step-children,
- 2) benefits from annuity insurance for pension purposes, cf. section 40, to the insured person in accordance with the terms of the scheme on disbursement in instalments and payment of instalments after the death of the insured person, provided that a benefit clause specifies that the instalment benefits are to be paid to the spouse or cohabiting partner of the insured person, including divorced spouse or issue, step-children or issue of step-children, and
- 3) pension from a pension scheme with periodic disbursements, cf. section 39(1) and disbursements of capital sums under section 39(3) and (4), and payment from annuity insurance for pension purposes, cf. section 40, to the owner's divorced spouse where the benefits accrue to the spouse under division of community property.

(2) Payments by instalment from an insurance covered by section 40 are subject to income tax regardless of whether the payments are made to persons other than the persons referred to in subsection (1), para. 2.

(3) Disbursements from a pension scheme with periodic benefits that is terminated prematurely and is set up in a pension fund or in a life or pension insurance company which is not registered in Greenland are subject to income tax, cf. however section 43(5).

(4) Disbursements from annuity insurance that is terminated prematurely and is set up in a life or pension insurance company which is not registered in Greenland are subject to income tax, cf. however section 43(5).

**Section 43.**-(1) Own or employer's contributions to public service pensions and the Labour Market Supplementary Pension Fund are disregarded in the taxable income.

(2) Periodic benefits from the schemes specified in subsection (1) are included in the taxable income.

(3) In calculating the taxable income, accrued interest on pension schemes in Danish banks and similar institutions covered by the Act on taxation of pension schemes (lov om beskatning af pensionsordninger m.v.), Part 1, and amounts deposited in the Employees Capital Pension Fund are disregarded.

(4) In calculating the taxable income, employer's contributions to pension schemes for public servants which are designed as annuity insurance, instalment savings for pension purposes, index insurance, index savings, endowment insurance and capital pension schemes are disregarded provided the scheme is mandatory for the employee and was set up before commencement of tax liability. However, where the selected scheme is taxable under section 50 and 53A of the Pension Tax Act (pensionsbeskatningslov), the employer's contribution shall not be disregarded.

(5) In calculating the taxable income, the value of pension schemes terminated prematurely is not included provided the schemes are covered by the Pension Tax Act, Part 1.

**Section 44.**-(1) Yields on life insurance and pension schemes not covered by section 39 or section 40 are included in taxable income. The income tax liability lies with the owner or the person who is entitled to the insurance benefits after the death of the owner. The yield is calculated as the difference between, on the one hand, the capital value of the insurance at the income year-end plus disbursements during the year and, on the other hand, the capital value of the insurance at the beginning of the income year plus contributions during the year. A negative yield on an insurance policy shall only be offset against positive yields on the same insurance in the following 5 income years in accordance with the rules in section 30(1).

(2) Disbursements from life insurance policies covered by subsection (1) are not included in taxable income, with the exception of periodic benefits.

(3) The provisions in subsections (1) and (2) shall not apply to life insurance which can only be paid out in the event of death or disability of the insured person before the agreed expiry date of the insurance where the agreed expiry date is no later than the first policy date after the insured person turns 80 years.

(4) Disbursements of life insurance sums, including disability compensation paid out as lump sum from life insurance policies covered by subsection (3) and accident insurance are disregarded in taxable income.

(5) The provisions in subsections (1) and (2) do not apply to annuity insurance and annuity savings for pension purposes, index insurance, index savings, endowment insurance and capital pension schemes covered by Part 1 of the Act on taxation of pension schemes (lov om beskatningen af pensionsordninger med videre).

(6) The tax administration may exempt life insurance from taxation under subsections (1) and (2) if the insurance was set up while the policy holder was not taxable to Greenland.

**Section 45.**-(1) The transfer of a pension agreement or insurance between pension funds and life and pension insurance companies established in Greenland is not treated as outgoing and incoming payments if the transfer is made:

- 1) Between pension schemes with periodic disbursements, cf. section 39.
- 2) From an annuity insurance, cf. section 40, to a pension scheme with periodic disbursements, cf. section 39.
- 3) From an annuity insurance to another annuity insurance, cf. section 40.

(2) The tax administration may permit that amounts transferred from foreign insurance schemes are not treated as contributions to pension schemes covered by sections 39 or section 40.

(3) In order to apply the rules in subsections (1) and (2), it is a condition that the transferred amounts were not liable to income tax or duty before transfer.

**Section 46.**-(1) Disbursements from a pension scheme with periodic disbursements that is terminated prematurely and is set up in a pension fund or in a life or pension insurance company which is established in Greenland are subject to 45 percent tax.

(2) Disbursements from an annuity insurance that is terminated prematurely and is set up in a life or pension insurance company which is established in Greenland are subject to 45 percent tax.

(3) Assignment or other transfer for ownership or security and transactions, etc. that result in the scheme no longer fulfilling the deductibility conditions is equated with disbursement under subsections (1) and (2). A tax of 45 percent is payable of the amount which could have been paid out had the scheme been terminated at the time of assignment, transfer or transaction or the capital value of paid-up policy or similar.

(4) The provisions in subsection (1)-(3) shall not apply to distribution to spouses under division of community property or division of joint estate of spouses. After distribution, the spouse will be individually liable for income tax or liable to duty on the distributed part, and may insert a beneficiary in accordance with the rules in section 40(2).

(5) It is the duty of the taxpayer to immediately notify the pension fund or life or pension insurance company of transactions referred to in subsection (3).

**Section 47.**-(1) The paying pension fund or life or pension insurance company shall withhold tax under section 46 and remit it to the tax administration within 1 month after the pension fund or life or pension insurance company becomes aware of the tax liability.

(2) Any pension fund or life or pension insurance company that fails to fulfil its duty to withhold tax or withholds too little is directly accountable to the Treasury for payment of the outstanding amount, unless the pension fund or life or pension insurance company proves that it was not negligent of the provisions of this Act. The pension fund or life or pension insurance company shall be liable to the Treasury for payment of the amounts withheld. The amounts may be collected under the provisions of this Act.

(3) The Landsstyre prescribes detailed rules regarding the payment of the tax to the tax administration.

## **Part 5**

### *Merger, division, generational handover, etc.*

**Section 48.**-(1) In the case of a merger of limited liability companies referred to in section 1(1), para. 3, the tax administration may permit the companies to be taxed under the provisions of this Part.

(2) A merger takes place when a company transfers all its assets to another company or is amalgamated with another company.

(3) The tax administration may allow that the rules of succession in this Part be applied where shrimp quotas or fishing vessels are transferred if both the contributor and the receiving limited company are subject to tax as residents under section 1(1), paras. 1 and 3. However, the total payment for a shrimp quota or fishing vessel must be made in shares in the receiving company.

**Section 49.**-(1) The tax administration may determine the detailed terms for permission referred to in section 48(1).

(2) It is a prerequisite for such permission that the shareholders in the transferring company are paid by shares in the receiving company alone and possibly a cash amount



not exceeding 10 percent of the nominal value of the shares or the carrying amount in the absence of a nominal value.

(3) The provision in subsection (2) does not apply to shares in the transferring company which are owned by the receiving company.

(4) A prerequisite for permission is that the merger date must coincide with the cut-off date of the receiving company's financial year. The deemed merger date for tax purposes is the date of the opening balance sheet of the receiving company prepared for the purpose of the merger.

**Section 50.**-(1) Along with the request for permission for merger under section 48(1), the receiving company must enclose copies of the documents required under company law for the purpose of the merger.

(2) The tax administration also determines which other documents the receiving company must submit with the application.

**Section 51.**-(1) In calculating the transferring company's taxable income for the period from the expiry of the last normal income year until the merger date, the income for the entire period is assessed regardless of the length of the period. The assessment is made without regard for the dissolution of the company in connection with the merger. If the normal income year for the transferring company expires before the 31st of December in the calendar year which the income year replaces, and if the merger date is after the expiry of the normal income year but before the expiry of the calendar year in question, the last income year will constitute the entire period from the start of the income year until the merger date.

(2) The receiving company has an obligation to file an income tax return for the period specified in subsection (1). The receiving company shall be liable for any tax claims and for all penalties chargeable to the transferring company under the provisions of this Act. The receiving company assumes the transferring company's claims against the tax administration for interest and overpaid tax, cf. section 27(5) of the Greenland Landsting Act on Administration of Taxes (landstingslov om forvaltning af skatter).

**Section 52.**-(1) Assets and liabilities held by the transferring company at merger are treated in the receiving company's taxable income as if they were acquired by the latter at the date on which they were acquired by the transferring company and at the purchase prices at which they were acquired by that company. Any tax depreciation and write-down for impairment taken by the transferring company are deemed to have been taken by the receiving company.

(2) Assets and liabilities acquired by the transferring company for speculative or trading purposes are treated in the receiving company's taxable income as if they were acquired by the latter company for speculative or trading purposes. The fact that an

asset or liability is transferred under a merger from the transferring company to the receiving company does not prevent the asset or liability from being deemed as acquired for speculative or trading purposes in the receiving company's taxable income.

(3) Where the transferring company has included unrealized gains and losses on securities in the taxable income, the securities will be treated in the taxable income of the receiving company as if they were recognized in the income calculation of the receiving company.

(4) The tax treatment of assets and liabilities which the receiving company has not acquired from the transferring company will not change as a result of the merger provided that the assets and liabilities that can be documented were acquired as part of the merger are recorded as separate items in the accounts of the receiving company as well as in its tax statement. If not, the tax administration will determine whether the assets and liabilities in question fall within the scope of the rules applying to the transferring company or the rules applying to the receiving company.

(5) Where there are losses in the transferring company from previous years at merger, such losses shall not be deductible in the receiving company's statement of income. This also applies to losses on financial contracts. Where there are losses in the receiving company at merger, such losses shall be treated according to the rules in section 30.

(6) In a merger between a parent and a 100 percent-owned subsidiary, or between two 100 percent-owned affiliated companies, losses in the transferring and receiving companies shall be treated in accordance with the rules in section 30.

(7) Where one of the companies has losses from previous years at merger, such losses, notwithstanding the provision in section 30(6), will not be deductible in the transferring or receiving company's taxable income in the preceding 5 income years.

**Section 53.**-(1) Shares in the transferring company are deemed disposed of by the shareholders to third parties to the extent that they are paid for by other than shares in the receiving company. The disposal is deemed to have taken place at the price on the merger date referred to in section 49(4).

(2) Gains or losses on redemption as referred to in subsection (1) of shares in the transferring company are treated according to the rules in section 16(2) and section 34(1), para. 2.

(3) Where the shareholder has more shares in the transferring company than the shares deemed redeemed and they were acquired at different times, the earliest acquired shares shall be deemed as redeemed. Shares which were acquired at the same time which have differing rights or some of which were acquired by the shareholder for speculative or trading purposes are deemed to have been redeemed in proportion to the market value of the shares on the merger date referred to in section 49(4).

**Section 54.**-(1) Shares cancelled by a receiving company under a merger are disregarded in the company's taxable income both in terms of gains as well as losses.

(2) Where the receiving company on acquisition of assets and liabilities from the transferring company or companies acquires treasury shares, gains or losses on cancellation are disregarded in the company's taxable income.

**Section 55.**-(1) Shares in the receiving company which shareholders receive as consideration for shares in the transferring company shall be treated in the taxable income as if they were acquired at the same time and same price as the exchanged shares. Shares received in the receiving company shall be deemed to have been acquired by the shareholder for trading or speculative purposes if the exchanged shares were acquired for such purpose.

(2) Where exchanged shares were acquired at different times, or where some were acquired by the shareholders for trading or speculative purposes, they are considered for each acquisition of shares as if they were exchanged for a corresponding amount of the shares received in the receiving company. The amount is calculated according to the price of the exchanged shares on the merger date referred to in section 49(4). Where the received shares have different rights, the calculation will be made separately for each category of share received.

**Section 56.**-(1) In a merger of cooperatives referred to in section 1(1), paras. 4, 6 and 7, the tax administration may permit that the principles of this Part shall apply mutatis mutandis, and the tax administration may also prescribe the terms for such.

(2) In a merger of a limited company domiciled in Greenland and a similar company domiciled abroad or between companies which are both domiciled abroad, the tax administration may permit that the principles of this Part shall apply mutatis mutandis, and the tax administration may also prescribe the terms for such.

(3) In a division of a limited company, the tax administration may permit that the principles of this Part shall apply mutatis mutandis, and the tax administration may also prescribe the terms for such.

(4) In a transfer of assets to a limited company, the tax administration may permit that the principles of this Part shall apply mutatis mutandis, and the tax administration may also prescribe the terms for such.

**Section 57.**-(1) The Landsstyre or the party so authorised by the Landsstyre may permit that the part of the salary which an employee uses to purchase shares in a company are not included in the taxable income until the income year when the individual in question disposes of the shares, however at latest before termination of the individual's liability to tax as a resident. This also applies to the value of shares at a discount which an employee gains from purchase of shares.

(2) It is a prerequisite for permission under subsection (1) that the employee has signed a written agreement on a successive generational handover with the principal shareholder and that both the employee and the company are subject to tax as residents in Greenland.

(3) The permitted amounts under subsection (1) shall not individually exceed DKK 50,000 in a single income year.

(4) Regardless of the provision in subsection (1), where the agreed generational handover is not implemented, the employee shall recognise the amounts in the income year in which the generational handover agreement is no longer satisfied.

**Section 58.**-(1) The tax administration may permit application of the rules in subsections (2)-(4) in the transfer while alive of a business or share of a business to children, grandchildren, siblings, children or grandchildren of siblings if both the transferor and transferee are taxable to Greenland as residents pursuant to section 1(1). Adoption and stepchildren relationships are equated with family blood relationships.

(2) Where the assets of a business are transferred at a value that is equal to or greater than the tax base but below the market value, tax depreciations and taxation of profits and deductions for losses on disposal shall be treated in the transferee's taxable income as if the assets were acquired by the transferee on the dates and for the amounts at which the assets were originally acquired by the transferor. Any tax depreciations taken by the transferor shall be deemed taken by the transferee. If the assets were acquired by the transferor for trading or speculative purposes, the gains and losses resulting from the sale of the assets by the transferee must be recognised in the transferee's taxable income to the extent that the gains or losses should have been included in the transferor's taxable income if the latter had made the sale.

(3) Instead of succession for tax purposes, cf. subsection (2), the transferor and transferee may choose to calculate their profit or loss on the transfer of the business in accordance with the general rules on transfer of undertakings even though the assets of the business are transferred within the values referred to in subsection (2).

(4) The transferee shall not deduct losses from income years before acquisition against profits from transfer of the business.

## Part 6

### *Calculation of tax*

**Section 59.**-(1) Individuals, companies, etc. who are subject to tax as residents and as non-residents are subject to state tax, joint municipal tax, municipal tax, special state tax, dividend tax and corporation tax in accordance with the provisions of this Part.

**Section 60.**-(1) Companies subject to tax as residents and as non-residents are subject to 30 percent corporation tax on income defined under section 66.

(2) Companies which have been awarded an exploitation or exploitation licence pursuant to the Act on mineral resources and mineral resource activities or been awarded an exploitation licence pursuant to the Greenland Landsting Act on exploitation of ice and water for export are liable to 30 percent corporation tax on income defined under section 66.

**Section 61.**-(1) State tax is levied according to a percentage specified by the Landsting of the income defined under section 66 .

(2) The Landsting determines the chargeable percentage of state tax before the 15th of November prior to the calendar year in question.

**Section 62.**-(1) Municipal tax is charged according to a percentage specified by the Landsting of the income defined under section 66.

(2) The municipal council determines the chargeable percentage of municipal tax before the 1st of December prior to the calendar year in question. The chargeable percentage may not be higher than 30 percent or lower than 20 percent.

(3) Taxpayers for whom the tax administration (Skattedirektorat) is the tax municipality pursuant to section 68(2) shall not be liable to municipal tax.

**Section 63.**-(1) Joint municipal tax is charged according to a percentage of the income defined under section 66 stipulated by the Landsting.

(2) During a Landsting Assembly in the first half of the year prior to the calendar year in question, the Landsting determines the chargeable percentage for the joint municipal tax according to negotiations with the Association of Local Authorities in Greenland (De Grønlandske Kommuners Landsforening).

(3) Taxpayers for whom the tax administration (Skattedirektorat) is the tax municipality pursuant to section 68(2) shall not be liable to joint municipal tax.

**Section 64.**-(1) Special state tax is charged according to a percentage specified by the Landsting of the income defined in section 66.

(2) The Landsting determines the chargeable percentage of special state tax before the 15th of November prior to the calendar year in question.

(3) Special state tax is only chargeable to taxpayers for whom the tax administration (Skattedirektorat) is the tax municipality, cf. section 68(2).

**Section 65.**-(1) Dividend tax and royalty tax are levied in accordance with the provisions in sections 86-92.

**Section 66.**-(1) For the taxable persons listed in section 1(1), paras. 1 and 2, and section 2(1), paras. 1, 3, 4, 5 and 6, the income is the taxable income reduced by personal allowances, cf. section 67, and rounded down to the nearest amount in DKK which is divisible by 100. Similarly the income of taxpayers referred to in section 2(1), para. 2 is reduced to the extent they receive remuneration during the period of notice.

(2) For taxable companies, etc. and individuals who are non-resident for tax purposes who do not fall within the scope of subsection (1), the income is the taxable income rounded down to the nearest amount in DKK which is divisible by 100.

(3) The Landsstyre may however decide that the income of taxpayers referred to in section 2(1), para. 8 must be calculated in accordance with the rules in subsection (1), meaning that personal allowances are granted.

**Section 67.**-(1) The amount of personal allowance is determined by the Landsting in a Landsting Assembly in the first half of the year prior to the calendar year in question.

(2) Spouses who are jointly assessed for tax are entitled to two personal allowance amounts. For the income year in which a marriage is terminated by the death of a spouse, the surviving spouse will be granted two personal allowance amounts.

**Section 68.**-(1) The tax municipality is the municipality in Greenland in which the taxpayer on the 1st of September of the year prior to the income year had the affiliation which gives rise to tax liability pursuant to section 1 or section 2. Where the liability to tax commences at a later date, the tax municipality is the municipality in which the taxpayer had the affiliation referred to in the first sentence at commencement of tax liability.

(2) In the event that the affiliation referred to in subsection (1) is in an area that is not located within any defined municipality, or the taxpayer has been awarded an exploitation licence in accordance with the Act on mineral resources and mineral resource activities, the tax administration (Skattedirektorat) shall be the designated tax assessment authority. The tax administration (Skattedirektorat) shall also be the designated tax assessment authority for taxpayers who have been awarded an exploration licence and who only perform activities in Greenland pursuant to a licence under the Act on mineral resources and mineral resource activities, and for taxpayers who fall within the scope of section 32(3).

(3) In the event that a municipal council or a taxpayer consider that the designated tax assessment authority is not the correct authority, an objection can be filed against the

municipal council in the designated tax assessment municipality before the end of the income year in question. Where the designated tax assessment authority is the tax administration (Skattedirektoratet), cf. subsection (2), the objection should be raised against the tax administration. Should any question of doubt arise, the tax administration (Skattedirektoratet) will decide which municipality shall be the tax assessment authority. However, any case of doubt where the tax administration (Skattedirektoratet) has been designated as tax assessment authority will be settled by the Landsstyre.

(4) Where spouses who are jointly assessed for tax have different tax municipalities, the calculation of tax, etc. shall be based on the tax municipality of the husband. However, in special circumstances, the tax administration may permit that the calculation of tax be made on the basis of the wife's tax municipality. A request for such must be submitted no later than on submission of the tax return for the income year in question.

**Section 69.**-(1) Tax paid to a foreign state, to Denmark or the Faroe Islands, which has been levied on income from sources in the country in question either by means of direct taxation or by means of withholding is deductible in the income taxes payable on said income in Greenland. However, the deduction amount shall not exceed the portion of the total Greenlandic tax which according to the ratio between the part of the income taxed in the foreign state, Denmark or the Faroe Islands and the total income taxed in Greenland falls on the first part of income.

(2) Where an agreement for the avoidance of double taxation has been entered into with the foreign state, Denmark or the Faroe Islands, the deduction shall however not exceed the amount which the foreign state, Denmark or the Faroe Islands is entitled to pursuant to said agreement.

**Section 70.**-(1) Where an individual who is subject to tax under section 1 has earned income for work services on board a ship registered in the Danish International Register of Shipping, and which does not sail in Greenlandic territorial waters, the total tax shall be reduced by the amount which proportionately falls on said salary income.

(2) Individuals subject to tax under section 1 who earn salary for work services on board a freight ship registered in the Danish International Register of Shipping which transports freight regularly between Greenland and abroad, including Denmark and the Faroe Islands are also subject to the rule in subsection (1).

(3) Individuals subject to tax under section 1 who earn salary on board a freight ship with a gross tonnage of at least 1,100 which is registered in the Danish International Register of Shipping and which transports freight on a regular route between Greenlandic ports from and to the freight ships referred to in subsection (2) and tankers with a gross tonnage of at least 450 are also subject to the rule in subsection (1).

**Section 71.**-(1) Greenlandic passenger liners with a gross tonnage of at least 1,100 which are engaged in cruises or in a combination of services may be included on the tax administration's net salary register provided agreements on pay and working conditions for all employees on ships in the register expressly state that they apply only to such employment. The Landsstyre may prescribe detailed rules for registration on and de-registration from said register.

(2) Combination services mean voyages with passengers who have purchased a combined air and sea ticket as part of a travel arrangement from Denmark, the Faroe Islands or abroad, and where in the event of vacant places, tickets are sold to passengers for transport internally in Greenland.

(3) A Greenlandic passenger ship means a ship which is registered in Greenland, and used exclusively for commercial travel with passengers. Passenger liners registered in Denmark, the Faroe Islands or abroad are equated with passenger liners registered in Greenland if the ship is taken over without crew (bareboat) by a Greenlandic shipping company for commercial passenger services. A passenger ship registered in Greenland, but which is taken over without crew by a Danish, Faroese or foreign shipping company to transport passengers is not classified as a Greenland passenger ship.

(4) Where a person has earned salary on board a passenger ship registered on the tax administration's net salary register, the total tax shall be reduced by the amount which proportionately falls on such salary income.

(5) Salary income for services on board earned during the time the passenger ship is on land for construction, repairs or temporary decommissioning is covered by subsection (4).

**Section 72.**-(1) Where an individual subject to tax under section 1 has received amounts as needs assessed assistance or supplementary means tested assistance which are not exempt from tax under section 34, para. 10, the total tax shall be reduced by the amount which proportionately falls on such income.

## **Part 7**

### *Collection of taxes*

**Section 73.**-(1) State tax, joint municipal tax, municipal tax and special state tax are levied in accordance with the rules in this Part. Dividend tax and royalty tax are charged in accordance with the rules in Part 8.

(2) Taxable persons pay tax with preliminary amounts during the course of the income year, cf. however section 76(2), third sentence, section 86(1) and section 91(1).



*Income tax collected at source ("A-skat) and tax not collected at source ("B-skat")*

**Section 74.**-(1) Amounts which are withheld under the rules of sections 76-82 are referred to as tax collected at source (referred to as A-tax in the following). Income which is taxed at source is called A-income. Taxable income which is neither taxable at source nor subject to dividend tax under Part 8 is referred to as B-income. Preliminary tax on income not taxed at source, cf. sections 83-84, is referred to as B-tax.

**Section 75.**-(1) A-income includes:

- 1) Any consideration in money for work services, including salary, holiday pay, fees, bonus, commission, tips and similar. Consideration in any medium other than cash is categorised as A-income only to the extent the Landsstyre provides rules on this matter.
- 2) Remuneration for membership of or assistance to boards of directors, committees, commissions, councils, etc.

(2) Subject to rules laid down by the Landsstyre, A-income may include:

- 1) other categories of income which essentially constitute a net income for the recipient, and
- 2) sales amounts from sale in Greenland of products from fishing, trapping, hunting, sheep breeding and arts and crafts unless the sale is made by a company, association or similar.

(3) Income is not classified as A-income where the disbursement is made by:

- 1) diplomatic representatives of foreign states and members of such and career consuls of foreign states or
- 2) individuals, deceased estates, companies, associations, etc. that do not have jurisdiction in Greenland, cf. however section 76(4).

(4) In special circumstances, the Landsstyre may establish rules that a certain income or a certain category of income subject to the provisions in subsection (1) or (2) is not classified as A-income. The Landsstyre may also establish rules that a category of income subject to the provisions in subsection (1) or (2) is not classified as A-income.

(5) In case of doubt, the Landsstyre will determine whether an income should be classified as A-income or B-income.

**Section 76.**-(1) In connection with each disbursement of A-income, the party on whose behalf the disbursement is made must withhold preliminary tax on the amount paid. For special payments such as holiday pay and public holiday pay, the Landsstyre may prescribe specific provisions concerning the time of withholding and the income year in which the payments must be taxed.

(2) The withholding is made by the person responsible for withholding the tax calculating the amount to be withheld and withholding the calculated amount in the A-

income. For resident taxpayers the withheld amount constitutes preliminary A-tax. For non-resident taxpayers the withheld A-tax is a final tax.

(3) The withholding takes precedence over other claims against the A-income in question, including counter-claims by the person responsible for withholding the tax.

(4) Where the party on whose account the income is paid out does not have jurisdiction in Greenland, and the disbursement is made by the agent of such party who has jurisdiction in Greenland, it is the duty of the agent to make the withholding.

(5) The Landsstyre may stipulate that in calculating A-tax, the person responsible for withholding must round down the amount on which tax is calculated to the nearest amount in DKK which is divisible by 10.

(6) The Landsstyre may determine the lower limit for withholding of A-tax.

**Section 77.**-(1) Where A-income is paid out through the Employees' Guarantee Fund, the party which should have withheld tax had the disbursement not been made by the Fund must remit as A-tax to the tax administration, cf. 34 of the Landsting Act on Administration of Taxes, the amount which the Fund pursuant to section 2(1), third sentence of the Act on Employees' Guarantee Fund (loven om Lønmodtagernes Garantifond) deducts as withholding tax before making the payment. The withholding rules thus apply to the extent that they according to their contents are compatible with the above.

(2) In relation to the recipient of A-income, the amount that the Fund deducts as withholding tax will replace A-tax on the income.

**Section 78.**-(1) The Landsstyre may reach agreement with the Danish Government that tax shall be withheld in income which an individual, company, etc., including agent, having jurisdiction in one part of the Realm pays to a resident or non-resident taxpayer in another part of the Realm. Rules on withholding, payment, etc. may be determined in connection with such agreement.

(2) Income covered by an agreement entered into pursuant to subsection (1) which is paid to a resident or non-resident taxable person in Greenland will under this Act be classified as A-income.

**Section 79.**-(1) For the purpose of withholding A-tax, the tax administration will issue a tax card and secondary tax card to taxpayers who are expected to earn A-income in the year in question. Recipients of A-income must submit a tax card or present a secondary tax card to the party which has a duty to withhold tax.

(2) On the tax card the tax administration will specify the amount to be deducted from A-income for 1 month, 14 days, 1 week and 1 day before withholding is made. For resident taxpayers the deductions constitute a proportionate share of the total deductions

which the taxpayer is expected to be granted in the income statement and calculation of tax for the year. For non-residents taxpayers, the deductions constitute a proportionate share of the deductions which the taxpayer is granted in the calculation of tax, cf. sections 2 and 66. The secondary tax card does not specify any deduction amount.

(3) In special circumstances, the Landsstyre may stipulate that the tax card will not specify a deduction amount or that the total deduction must be broken down in another manner than in subsection (2).

(4) The tax administration specifies the withholding percentage on the tax and secondary tax card, cf. sections 61-64.

(5) Where the circumstances of the case so warrant, the tax administration may issue a tax card which does not specify any deduction amount and where the withholding percentage is calculated based on the taxpayer's expected income.

(6) Where the circumstances of the case so warrant, for example, if it is obvious that a taxpayer will not pay income tax because he will not earn enough income, the tax administration may determine that going forward no taxes will be withheld on A-income earned by the taxpayer. This decision may be limited to certain A-income or A-income which is paid out during a certain period or up to a certain maximum amount. When such a decision is made, the recipient of the A-income must present a tax exemption card issued by the tax administration to the payer of the A-income. In special circumstances, the Landsstyre may decide to dispense with tax on a specific category of A-income without the use of a tax exemption card.

(7) The tax administration can provide the person responsible for withholding with the information specified on the tax, secondary tax card or tax exemption card. In this case, A-tax must be withheld on the basis of this information.

**Section 80.**-(1) Where the taxpayer has neither submitted a tax card nor presented a secondary tax card or tax exemption card, 45 percent tax will be withheld without any deductions, and 23 percent tax will be withheld on income specified in section 75(2), para. 2.

(2) Where A-income is earned in an employment relationship in which the taxpayer keeps amounts which he receives for services from a third party, the A-income must be calculated each time payments are calculated between the taxpayer and his employer, but at least once monthly. At the same time, the taxpayer must remit the A-tax payable on the A-income to the employer. Should the taxpayer fail to remit the A-tax, he may be dismissed with immediate effect, regardless of the period of notice agreed between the parties.

**Section 81.**-(1) Amounts withheld by the person responsible for withholding during a calendar month must be paid to the tax administration by the said person in the next following month.

(2) The Landsstyre may prescribe special rules on payment in cases where the person responsible for withholding has shown inconsistency or negligence in relation to the withholding.

(3) The person responsible for withholding must provide a statement regarding the withholding in accordance with rules laid down by the Landsstyre.

(4) The rules referred to in subsection (3) may provide that where the required statement is not submitted on time, the person responsible for withholding the tax will be subject to a charge of 1 percent of the amount payable for the period in question. The charge will amount to at least DKK 500 and will not exceed DKK 1,000. The charge is payable to the tax administration.

(5) The Landsstyre may prescribe rules on the obligations of the person responsible for withholding the tax to provide information for the statements referred to in subsection (3), including a duty to record national identification numbers, names and addresses of recipients of A-income. The Landsstyre may also establish rules regarding the bookkeeping of persons with a duty to withhold regarding payment of A-income and withholding of A-tax.

(6) The Landsstyre may set minimum thresholds for additional payments from and refunds to the person responsible for withholding the tax in cases where the amount payable according to the statement plus charges and interest, cf. subsection (4) and section 33(1) of the Landsting Act on Administration of Taxes (landstingslov om forvaltning af skatter) differs from the amount paid.

**Section 82.**-(1) The person responsible for withholding the tax must keep the recipient of the A-income informed in writing regarding the withholding in accordance with rules laid down by the Landsstyre.

(2) Where the person responsible for withholding the tax refuses to provide the described information to the recipient of the income, the latter can request the tax administration to intervene in order to procure the information.

**Section 83.**-(1) Where it is expected that a taxable person will have to pay preliminary tax on B-income but not on A-income, the preliminary tax will be charged in the notice of assessment. The preliminary tax on B-income is calculated on the expected taxable B-income minus the allowances which the taxpayer is expected to be entitled to in the final tax return and calculation of tax payable for the year in question.

(2) The Landsstyre may determine minimum amounts for collection of B-tax.

(3) B-tax is due for payment in 10 instalments on the 1st of January, February, March, April, May, July, August, September, October and November, the last due payment date being the 20th of the month. If the last payment date falls on a Sunday, public holiday or a Saturday, the deadline will be extended to the following weekday.

(4) The tax is levied by the tax administration.

**Section 84.**-(1) Where it is expected that the taxpayer will have to pay preliminary tax on A-income as well as on B-income, the Landsstyre will prescribe rules on the extent to which the preliminary tax shall be collected by withholding or by payment card.

**Section 85.**-(1) A taxpayer may pay extra preliminary tax to the tax administration in addition to the amount withheld on A-income or charged as B-tax. Such payment can also be made after the end of the income year, but not later than the 1st of April in the year in which the assessment is made. Any tax arrears with interest and charges for the income year which the payment relates to are offset in advance against the paid amount.

## **Part 8**

### *Dividend tax and royalty tax*

**Section 86.**-(1) In connection with each resolution to pay out or credit dividend by a public or private limited company which is registered as domiciled in Greenland, the company must withhold on the dividend the total tax rate, cf. section 61-63, specified for the company's tax municipality, cf. section 68, for the calendar year in question. The withheld amount which is referred to as "dividend tax" is a final tax. This also applies to the associations listed in section 1(1), para. 10.

(2) Dividend is defined as all that is distributed to shareholders except bonus shares and liquidation proceeds. Where a principal shareholder liquidates a company that has sold assets to another company in which he also is principal shareholder, the liquidation proceeds of the principal shareholder will be deemed calculated in accordance with section 16(2), however as dividend. This also applies to dividend to shareholders.

(3) A shareholder is deemed a principal shareholder, cf. subsection (2), if the person in question alone or with spouse, parents, grandparents, children, grandchildren and spouses of these at any point in time within the previous 5 years has owned 25 percent or more of the share capital or during the same period has controlled more than 50 percent of the voting power. Stepchildren and adoption relationships are equated with family relationships.

(4) The tax is calculated on the total dividend without any deductions.

(5) The withholding take precedence over other claims on the dividend, including counter-claims from the public or private limited company.

**Section 87.**-(1) Where a company buys back employee shares for resale to other employees, the company must withhold dividend tax equal to the difference between the total rate of tax, cf. sections 61-63, specified for the company's tax municipality, cf. section 68, and the corporate tax rate for the calendar year in question as specified in section 60.

(2) Where a listed company buys back treasury shares, the company must withhold dividend tax as described in subsection (1).

(3) A company in which the liquidation proceeds of the principal shareholder are classified as dividend, cf. section 86(2), para. 2, must withhold dividend tax as described in subsection (1).

(4) A company must withhold dividend tax in the manner described in subsection (1) where the company carries out a distribution of capital in connection with generational handover, including ongoing generational handover if a written agreement to this effect has been entered into. Where the agreed generational handover is not carried through, the company must pay dividend tax according to section 86(1) minus previously paid dividend tax under subsection (1) within one month from cancellation of the agreement.

**Section 88.**-(1) The company must remit the withheld dividend tax to the tax administration within one month of the date of the resolution to distribute or credit the dividend. In the case of a distribution of capital, the withheld dividend tax must be paid in within one month after expiry of the statutory notice deadline. With the payment, the company must submit information regarding the resolution on a form provided by the Landsstyre. In the case a resolution is reached not to declare dividend, information to that effect must also be submitted within one month. The submission of said information can be enforced by imposing daily fines fixed by the Landsstyre or the party so authorized by the Landsstyre. This also applies for associations referred to in section 1(1), para. 10.

**Section 89.**-(1) Any person who draws or is credited dividend may request the paying or crediting entity to certify the payment or crediting on a form prescribed by the Landsstyre provided he adequately proves his identity.

(2) The provisions of section 82(2) shall apply mutatis mutandis with respect to the certification of payment or crediting in question.

**Section 90.**-(1) Any person who is exempted from tax liability under section 3 who has received dividend in which dividend tax has been withheld under sections 86 or 87, shall on request be refunded the tax amount by the tax administration. However, associations and cooperatives referred to in section 1(1), para. 14 are not entitled to a refund of the withheld dividend tax even if they are tax exempt under section 3(2).

**Section 91.**-(1) On each payment or crediting of royalty to a person or a company, etc. that is taxable under section 2(1), para. 13, the person on whose behalf the payment or crediting takes place must withhold 30 percent of the total royalty. Individuals, deceased estates, companies, associations, institutions, etc., which have jurisdiction in Greenland have a duty to withhold royalty tax. Where the person on whose behalf the payment or crediting takes place does not have jurisdiction in Greenland, and the payment or crediting is made by the agent of such person who has jurisdiction in Greenland, it is the duty of the agent to make the withholding. The provision in section 76(3) applies *mutatis mutandis*. The withheld amount is referred to as "royalty tax" and is a final tax.

(2) Royalty includes payments of any nature received as consideration for the use of or right to use any copyright to a literary, artistic or scientific work, including feature films and films and tapes for radio or television programmes, any patent, trade mark, pattern or model, drawing, secret formula or secret processing method or for information on industrial, commercial or scientific experience.

**Section 92.**-(1) Royalty tax is due for payment when royalty is paid out or credited, and must be remitted to the tax authorities at the latest in the following month within the reporting deadline applying to the person responsible for withholding A-tax. The paying or crediting person must submit information to this effect on a form provided by the Landsstyre when remitting the royalty tax. Submission of said information can be enforced by imposing daily fines fixed by the Landsstyre or the party so authorized by the Landsstyre.

(2) The provisions in sections 89, 93 and 95 apply *mutatis mutandis*.

## **Part 9**

### *Liability and collection provisions*

**Section 93.**-(1) Any person who fails to comply with his obligation to withhold tax or withholds too little is directly accountable to the tax administration, cf. sections 81 and 88, for payment of the outstanding amount, unless he can prove that he was not negligent of the provisions of this Act.

(2) Any person who has withheld tax in accordance with this Act is liable to the tax administration for payment of the withheld amount.

(3) Where the claim against the person responsible for withholding the tax cannot be accurately calculated due to his circumstances, the tax administration has the authority to make a preliminary estimation of the claim.

**Section 94.**-(1) Where tax has not been withheld in A-income or the amount withheld is too low, the recipient must pay the outstanding amount to the tax administration immediately on demand.

**Section 95.**-(1) Agents in Greenland of taxpayers under section 2 are co-responsible for payment of the taxes payable by said taxpayers.

**Section 96.**-(1) Spouses jointly assessed for tax are jointly and severally liable for taxes.

**Section 97.**-(1) The estate or beneficiaries are liable for taxes levied on a person after death. The beneficiaries are jointly and severally liable to the extent that they receive inheritance or advancement, but the spouse is also liable with his share of the community property. This duty shall not be affected by a summons for the creditors of the deceased.

**Section 98.**-(1) Where a company or association, etc. is dissolved and its assets distributed to shareholders or members without setting aside sufficient funds to cover the corporation tax which the company or association is liable to pay, the shareholders and the members together with the liquidator, or board of directors where a liquidator has not been elected or appointed, shall be jointly and severally liable for payment of the taxes. The joint and several liability shall not be invoked against the liquidator or board of directors for an amount greater than the sum of distributions made to the shareholders or members, and shareholders or members shall be liable only to the extent of distributions received.

**Section 99.**-(1) Any person who transfers equity interests in a company at an excess price shall be liable for taxes and duties chargeable to the company as a current or latent liability at the time of transfer with an amount corresponding to the transfer price. The liability will only apply in the event that execution on the assets of the company has been unsuccessful. Where the transferor is a company that is non-resident for tax purposes, the liability can be invoked directly against individuals and companies who are tax residents in Greenland to the extent that they directly or indirectly exercise control over the transferring company. Any person who has been involved in the transfer as adviser in the course of his business shall be jointly liable with the transferor and the persons and companies mentioned in the third sentence.

(2) Where the transferor is an individual, the provision in subsection (1), sentences 1 and 2 shall only apply if his equity interest is 10 percent or more of the equity or share capital. Where the transferor is a company, the provision in subsection (1), sentences 1-3 shall only apply if the transfer concerns group-related companies; in this connection an equity interest of 10 percent of the equity or share capital of each company shall imply group-related companies.



(3) The provision in subsection (1) shall apply only when the transfer concerns equity interests in a company that at the time of transfer does not have any major financial risks from commercial activities.

(4) Excess price under subsection (1) is deemed to exist when the payment for equity interests clearly exceeds the pro rata share of the company net worth at transfer.

(5) Before transfer of equity interests in a company, the tax administration may issue advance confirmation that any liability under subsection (1) will not be invoked. This confirmation may be conditional upon provision of full or partial security for taxes and duties payable by the company as a current or latent liability at transfer. An adviser referred to in subsection (1), last sentence may discharge his liability if he seeks advance confirmation in writing before the transfer and includes the necessary information regarding the planned transfer. The tax administration's decision in relation to an advance confirmation request and the terms for such confirmation must be issued within 3 months of receipt of all information relevant for assessment of the question.

(6) The Landsstyre may prescribe rules on the procedure for advance confirmation. The Landsstyre may also prescribe rules on appeal, including that the decision shall not be appealed to any other administrative authority.

**Section 100.**-(1) Where a tax amount is not paid on time, the outstanding amount together with surcharges and interest may be collected in Greenland with the aid of authorized bailiffs under regulations laid down by the Landsstyre and otherwise in the same manner as provided for in the Administration of Justice Act (lov om rettens pleje) in Greenland with respect to court rulings or settlements regarding payment of money.

(2) Where collection from the taxpayer himself is unsuccessful, the collection may, where necessary, be made in property belonging to children if the yield on such assets is taxed at the level of the parents pursuant to section 5(2). This does not apply to the collection of taxes from a person with a duty to withhold taxes for tax amounts which said person should have withheld.

**Section 101.**-(1) Where a tax amount is not paid on time, the tax administration may issue written orders to the employer of the taxpayer or the person with a duty to withhold the tax in Greenland to withhold from the employee's salary the amount necessary to cover the outstanding amount plus charges and interest and to remit the withheld amount to the tax administration. The withholding duty pursuant to such orders also covers any advance payment of salary. If salary income is acquired by the person in question retaining amounts which he receives for work from a third party, the provisions in section 80(2) shall apply mutatis mutandis with respect to withholding under this section.

(2) Notwithstanding differing provisions in other legislation, the rules also apply to the salaries, etc. of public servants of the state, the government, and the municipalities.

(3) In the event that the person regarding whom an order has been given to withhold tax is not employed by the employer in question on the date on which the order is received, the employer must so notify the tax administration within 5 days of receipt of the order. A corresponding duty of disclosure lies with the employer in the event of termination of employment where the employer has received an order prior to termination to withhold tax, and the unpaid taxes in question have not been definitively paid at termination of employment. The notification must be submitted to the tax administration within 5 days of termination of employment.

(4) The provisions of subsection (1), first sentence shall apply *mutatis mutandis* in respect of income of the category referred to in section 75(1), para. 2 and in respect of redundancy pay, pensions and similar benefits received in Greenland and which are paid by the state treasury, the provincial treasury, the municipality, other public funds or private funds and in respect of amounts received from sale in Greenland of products from fishing, trapping, hunting, sheep breeding and arts and crafts.

(5) The rules in subsections (1)-(4) shall apply *mutatis mutandis* to the collection of amounts which the person responsible for withholding should have remitted pursuant to subsections (1)-(4).

(6) Withholding pursuant to subsections (1)-(5) must be made even if the payment is also subject to A-tax. The withholding cannot exceed 30 percent of the payment minus deduction of A-tax.

(7) The provision in section 76(3) applies *mutatis mutandis* regarding withholding under this provision.

(8) The Landsstyre prescribes rules on payment and settlement of amounts withheld under the provisions of this section. The provisions in section 81(5) second sentence, sections 82, 93, 100 and 105(1) apply *mutatis mutandis* to the matters dealt with in this section.

## Part 10

### *Penalties, etc.*

**Section 102.**-(1) Any person who in order to deprive the state of taxes with intent or gross negligence provides incorrect or misleading information used to determine whether a person is subject to tax or used for a decision regarding tax assessment or tax calculation shall be punishable under the Criminal Code for Greenland (kriminalloven for Grønland).

**Section 103.**-(1) Any person who with intent or gross negligence provides incorrect or misleading information for the audit of a tax assessment will be punishable in the same manner as specified under section 102.

(2) Any person in a situation not covered by subsection (1) who either with intent or through gross negligence fails to fulfil a duty imposed on him under section 86 or sections 88-98 shall be liable to a warning or a fine.

**Section 104.**-(1) Where a person on behalf of a business violates section 102 for the purpose of determining whether the business is subject to tax liability or for a decision regarding the tax assessment or tax calculation of the business, the owner of the business may be punishable by fine even though he has not acted with intent or negligence. Where the business is a public or private limited company, cooperative society, association, self-governing institution, foundation or similar, the legal person may be punishable by fine under the same terms. The fine penalty cannot be changed to another measure.

**Section 105.**-(1) Any person who with intent or gross negligence

- 1) fails to fulfil his duty to withhold A-tax, dividend tax or royalty tax,
- 2) fails to remit withheld tax on time,
- 3) fails to duly submit information referred to in section 81(3), section 88 and section 92,
- 4) submits incorrect or misleading information on matters referred to in section 81(3), section 88 and section 92,
- 5) fails to fulfil his duty to withhold duties under section 46(2), or
- 6) fails to duly remit the duties withheld under section 46(2) shall be punishable in the same manner as described in section 102.

(2) Where a violation referred to in subsection (1) is committed by a public or private limited company, cooperative society, association, self-governing institution, foundation or similar, the legal person may be punishable by fine. Where the violation is committed by the Greenland Home Rule Government, a municipality or inter-municipal enterprise, the Government, municipality or inter-municipal enterprise may be punishable by fine.

(3) The following shall be punishable in the same manner as described in section 102:

- 1) any person who accepts payment of A-income in the knowledge that tax has not been withheld on the income as prescribed,
- 2) any person who with intent or gross negligence provides incorrect or misleading information for decisions pursuant to section 75(4) and 75(5), section 79(6), section 84 or in relation to any of the applications referred to in said provisions withholds information which is importance for the outcome of the matter, or
- 3) any person who fails to give notification as referred to in section 46(5).

**Section 106.**-(1) Where the tax administration estimates that a violation will not result in more drastic punishment than a fine, the Landsstyre or the person so authorized by the Landsstyre may declare that the matter can be resolved without prosecution provided the involved party admits guilt and declares readiness to pay the fine specified in the declaration within a specified time limit which may be extended on request.

(2) With regard to the declaration referred to in subsection (1), the rules of the Administration of Justice Act (lov om rettens pleje) in Greenland on the contents of charge sheets will apply mutatis mutandis.

(3) If the fine is paid on time or is recovered after the agreement, there will be no further prosecution.

**Section 107.**-(1) Where a person has violated section 102, and criminal liability is time-barred under the provisions of the Criminal Code for Greenland (kriminalloven for Grønland), he shall be liable to pay an additional tax equal to the tax on the excluded income, unless the violation merely consists of aiding a third party to evade taxation. Section 108(5)-(8) will apply mutatis mutandis.

**Section 108.**-(1) Where a deceased person has paid too little tax, his estate or beneficiaries shall be liable to pay the outstanding amount.

(2) Where the deceased has violated section 102, and no penalties were determined in relation to the violation prior to death, the estate or beneficiaries shall be subject to an additional tax equal to the tax on the excluded income.

(3) Where a penalty for a matter referred to in subsection (2) has not been enforced at the time of the person's death, an additional tax will be levied in accordance with the rules in subsection (2) instead of the penalty. If this is merely a fine, the additional tax shall not exceed the amount of the specified fine.

(4) Where a penalty for a matter referred to in subsection (2) has been partially enforced at the time of the person's death, the additional tax will be proportionally reduced. If this is merely a fine, the additional tax along with the fine paid by the deceased shall not exceed the tax on the excluded income or the specified fine.

(5) Where the deceased estate or beneficiaries do not recognize a claim for additional tax, the issue will be decided in accordance with the rules in Part 5 of the

Administration of Justice Act (retsplejeloven). The tax administration may determine a deadline for acceptance of a settlement offer.

(6) In special circumstances, the tax administration may allow total or partial exemption from additional tax.

(7) The provisions in section 97 regarding liability of beneficiaries and surviving spouse and summons for creditors of the deceased shall apply *mutatis mutandis*. Arrears and additional tax under subsections (1)-(3) can be collected in the same manner as provided in section 100.

(8) At the request of the tax administration, the probate court, executor, or beneficiaries administering the estate out of court must provide all relevant information to determine whether the deceased has been assessed for tax for an insufficient amount. Beneficiaries administering the estate out of court can be forced to submit the information by daily fines fixed by the Landsstyre or the party so authorized by the Landsstyre. Where the tax administration estimates that claims can be made for arrears payment or additional tax, the deceased estate must be so notified within 3 months of the death. Where the statement under subsection (9) or the tax return under section 11(5) is received later than one month from the death, the notification shall be issued within 2 months of receipt. If the tax administration has sought within this time limit to clarify the question through the probate court, executor or beneficiaries administering the estate out of court, the estate must be informed within 2 months of receipt of the required information that a claim will be raised for arrears payment or additional tax. The administration of the estate shall not be terminated before the expiry of the aforesaid time limits unless the tax administration has declared that such claims will not be raised. Where the tax administration does not issue the notification on time, the liability of the estate and beneficiaries for payment shall lapse.

(9) The district court shall also inform the tax administration of the contents of statements under the Inheritance Act (arveloven) where the assets of the estate amount to DKK 50,000 or more.

**Section 109.**(1) Regulations issued pursuant to this Act may stipulate that any violation of the provisions of the regulations shall be punishable by fine.

(2) Regulations issued pursuant to this Act may stipulate that any violation committed by a public or private limited company, cooperative society, association, self-governing institution, foundation or similar shall be punishable by fine. Where the violation is committed by the Greenland Home Rule Government, a municipality or inter-municipal enterprise, the Government, municipality or inter-municipal enterprise may be punishable by fine.

**Section 110.**-(1) The police provide the tax administration with assistance in accordance with rules determined by negotiation between the Landsstyre and the Ministry of Justice.

**Section 111.**-(1) Fines charged pursuant to section 82, section 88, section 92 and sections 102-109 shall accrue to the Treasury.

## **Part 11**

### *Miscellaneous provisions*

**Section 112.**-(1) The Landsstyre provides rules on registration of the number of persons, companies, associations, etc. who are liable to pay tax in the country.

**Section 113.**-(1) The Landsstyre may determine that under certain conditions the tax return can be replaced by a statement covering only some of the taxpayer's income and assets.

**Section 114.**-(1) In order to fully or partially avoid double taxation, the Landsstyre may grant - subject to reciprocity - by agreement with Denmark, Faroe Islands or foreign states relief in the liability to pay taxes to the state.

(2) The Landsstyre may - subject to reciprocity - by agreement with Denmark, Faroe Islands or foreign states adopt provisions

1) that the Greenland authorities must procure and provide information required by the authorities in Denmark, the Faroe Islands or foreign state for the purpose of levying taxes, duties and charges,

2) that claims for taxes, duties and charges levied in Denmark, the Faroe Islands or in the foreign state in question and which can be collected there shall be collectable in Greenland pursuant to the applicable rules on collection and levying of identical or similar Greenlandic taxes, duties and charges,

3) that withholding tax to the authorities in Denmark, the Faroe Islands or the foreign state in question can be withheld in income paid by an individual, company, etc. or agent for such who has jurisdiction in Greenland, cf. also section 78.

(3) The Landsstyre may with Denmark and the Faroe Islands or a foreign state agree that an agreement for the avoidance of double taxation and a convention on mutual assistance in tax matters between Denmark and the Faroe Islands or the foreign state shall be extended in its entirety or with modifications to Greenland.

## Part 12

### *Commencement and transitional provisions*

**Section 115.**-(1) This Landsting Act shall come into force on 1 January 2007 and shall apply as from income year 2007.

(2) Landsting Act No. 5 of 19 May 1979 as most recently amended by Landsting Act No. 2 of 27 March 2006 shall not be repealed and shall remain in force for income year 1980 up to and including income year 2006.

(3) Notwithstanding the provision in subsection (2), sections 47, 48, 49, 50, 51, 51a, 51b, 51c, 52, 53, 54, 54 a, 55, 56, 57, 59, 59a, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 86, 88, 89, 90, 91, 92, 93, 94, 94a, 94b, 95, 96, 97, 98, 99, 100, 103, 104, 115, 116 and 120 of Landsting Act No. 5 of 19 May 1979, as most recently amended by Landsting Act No. 2 of 27 March 2006, shall be repealed with effect from income year 2007.

(4) The Landsstyre determines the rules that are necessary for the implementation of the Landsting Act.

Greenland Home Rule Government, 2 November 2006

Hans Enoksen

/

Josef Motzfeldt