Translation. Only the Danish document has legal validity

Consolidated act no. 945 of 6 August 2015
issued by the Danish Ministry of Taxation

Consolidated act on taxation of shipping activities (the tonnage tax act (*tonnageskatteloven*))

Hereby the act on taxation of shipping activities (*lov om beskatning af rederivirksomhed*) is promulgated, cf. consolidated act no. 965 of 19 September 2011, as amended by section 12 of act no. 924 of 18 September 2012.

The amendments following from section 1(i) and (iii), as regards section 10(2)(viii) of the tonnage tax act (*tonnageskatteloven*), of act no. 539 of 6 June 2007 amending the tonnage taxation act (*tonnageskatteloven)* (adjustment of the tonnage taxation act) have not been incorporated into this consolidated act as these amendments shall enter into force in accordance with a more detailed decision by the Minister for Taxation, cf. section 2(1) of act no. 539 of 6 June 2007.[1]

Part 1
Shipping companies
Scope

Section 1. Companies etc. which are liable for tax according to section 1(1)(i) and (ii) or (6) of the act on corporate income tax, etc. (*selskabsskatteloven*) and which carry out shipping activities as referred to in section 6 may opt to calculate their taxable income from the shipping activity according to the provisions of this act (tonnage taxation). This shall also apply to companies liable for taxation according to section 2(1)(a) of the act on corporate income tax (*selskabsskatteloven*) and which carry out shipping activities when these companies are domiciled in an EU Member State. The first sentence shall not apply to companies covered by section 2 C of the act on corporate income tax (*selskabsskattelov*en) unless this company is affiliated, cf. section 3(1), with a company covered by the tonnage taxation scheme.

Section 2. Shipping companies which meet the conditions in section 1 and use ships which, according to sections 6-8, may be covered by the act may opt for tonnage taxation from and including the first income year in which the relevant conditions are met. The election shall be made no later than the due date for submission of the tax return for the income year in which the tonnage taxation could first be opted for.

Subsection 2. Opting for or out of tonnage taxation according to subsection 1 shall be binding for the shipping company for a period of 10 years calculated from the beginning of the income year in which tonnage taxation could be selected for the first time. On the expiry of this period, tonnage taxation may correspondingly be selected for a new 10-year period. After withdrawal from the tonnage taxation scheme, the scheme may at the earliest be selected again after 10 income years under taxation according to the general regulations of the tax legislation.

Subsection 3. When the tonnage taxation scheme is applied, all ships and other assets which meet the conditions for tonnage taxation shall enter into the tonnage taxation scheme.

---

[1] The amendments adopted, cf. act no. 539 of 6 June 2007, of the condition whereby the gross tonnage of hired ships may be covered by the tonnage taxation scheme, cf. section 7(1) of the tonnage taxation act (*tonnageskatteloven*), and whereby the income from the administration of ships pools may be covered by the tonnage taxation scheme, cf. section 10(2)(viii) of the tonnage taxation act (*tonnageskatteloven*), have not yet entered into force in Denmark. Reference is made to section 2(1) and (2) of act no. 539 of 6 June 2007.

Section 3. When a shipping company has controlling influence, or when there is controlling influence from another shipping company, or when the same natural or legal persons have controlling influence over several shipping companies, all group shipping companies, including foreign jointly taxed shipping companies, cf. sections 31, 31A and 32 of the act on corporate income tax (*selskabsskatteloven)* shall exercise the same option regarding the application of the tonnage taxation scheme. Shipping companies, however, may refrain from exercising the same option when they do not have joint management or joint operating organisation and they do not carry out activities within related business areas. Controlling influence shall mean ownership or command of voting rights as referred to in section 2(2) of the act on the assessment of income tax to the state (*ligningsloven*).

Subsection 2. If shipping companies covered by subsection 1, the 2nd clause, no longer meet the conditions for not exercising the same option concerning application of the tonnage taxation scheme, all shipping companies regardless of the provisions in section 2(2) shall opt for taxation according to the tonnage taxation scheme from and including the income year when the conditions are no longer met.

Subsection 3. When ships, etc. which may be covered by this act are owned or leased by several shipping companies, the individual shipping companies' shares of such ships, etc. may be incorporated in the tonnage taxation scheme for the shipping companies in question.

Section 4. If shipping companies become allied companies (members of the same group), the binding period according to section 2 shall be considered the same as the binding period for the shipping company which was last covered by the tonnage taxation scheme. If not all shipping companies are covered by the tonnage taxation scheme, the binding period shall be 10 years from and including the income year in which the shipping companies become allied companies. The 1st and 2nd clauses shall apply correspondingly to merger and transfer of assets. For dividing companies the binding period shall be considered the same as for the company which is divided.

Subsection 2. If a shipping company becomes covered by the tonnage taxation scheme pursuant to section 3(2) or if a consolidated company which up to now has not carried out shipping activities begins to run such business without the provisions in section 3(1), 2nd clause, applying, the binding period according to section 2 shall be considered to be the same as for the allied company or companies.

Section 5. A shipping company which is converted according to the regulations in the act on tax-free conversion of undertakings (*lov om skattefri virksomhedsomdannelse*) may be covered by the tonnage taxation scheme when the ships becoming covered by tonnage taxation from and including the 2003 income year have been depreciated by the personal owner by a total amount which is maximum equivalent to the depreciation which could have been made when applying the depreciation rates which apply for companies at the time of company conversion. If the conversion includes several owners, the calculation according to the 1st clause shall be carried out for each owner.

Subsection 2. If, prior to the company conversion, depreciation has been carried out to a greater extent than mentioned in subsection 1, tonnage taxation may be opted for if the excess depreciation is included in the income liable for taxation by the person in question as income from an independent enterprise for the income year prior to the income year in which the company conversion takes effect.

Subsection 3. An ideal ownership interest in a personally owned enterprise carrying out shipping activities as referred to in section 6 may be considered as an independent enterprise which may be converted

according to the regulations in the act on tax-free conversion of undertakings (*lov om skattefri virksomheds-omdannelse*) when the converted enterprise is covered by the tonnage taxation scheme.

Income covered by tonnage taxation

Section 6. Income liable for taxation in connection with commercial activities with transport of passengers or freight (shipping activities) between various destinations by:

1) ships owned by the shipping company, cf. however subsection 2,
2) ships which are leased without crew (bareboat charter), and
3) ships which are leased with crew (time charter)

shall be assessed according to the regulations in sections 9-15. It shall be a condition that the ships have a gross tonnage of or above 20 t and that the ships are strategically and commercially operated from Denmark. It shall be a further condition that the registration condition in section 6a(1), cf. however section 6a(2) and (3), are met.

*Subsection 2***.** Ships which are owned or leased by the shipping company and are leased out may only be covered by this act when the lessee uses the ship for purposes which could be covered by this act if the ship was used for the same purpose by the lessor personally. Furthermore, ships owned or leased by the shipping company and leased out without crew (bareboat charter) may only be covered by this act when there is temporary surplus capacity and the shipping company leases out the ship for a period of no more than three years. The same ship may only be covered by this provision once when the ship is owned by the same shipping company or a shipping company in the same group as the shipping company.

Section 6a. It shall be a condition, cf. section 6(1), 3rd clause, that the shipping company on average during the year of income maintains or increases the percentage of the gross tonnage owned by the shipping company and registered in an EU or EEA Member State. The assessment of whether the condition in the 1st clause is met shall be based on the percentage of the gross tonnage owned by the shipping company and used for purposes which could be covered by this act and which, on 12 January 2005, are registered in an EU or EEA Member State. Shipping companies which were covered by the tonnage taxation scheme on 17 January 2004 may opt to base the assessments according to the 1st clause on the equivalent percentage of the gross tonnage on 17 January 2004. Shipping companies which, after 12 January 2005, become covered by the tonnage taxation scheme shall base the assessments according to the 1st clause on the equivalent percentage of the gross tonnage at the time the shipping company becomes covered by the tonnage taxation scheme.

*Subsection 2***.** Subsection 1 shall not apply if – for all shipping companies together covered by this act – the percentage of the gross tonnage owned and used for purposes which could be covered by this act and registered in an EU or EEA Member State has not decreased on average during the previous income year.

Subsection 3. Subsection 1 shall not apply either if on average over the year of income at least 60 per cent of the gross tonnage owned by the shipping company and used for purposes which could be covered by this act is registered in an EU or EEA Member State.

*Subsection 4***.** For shipping companies which shall make the same option regarding application of the tonnage taxation scheme, cf. section 3(1), the tonnage provisions mentioned in subsections 1-3 shall apply for the allied shipping companies together on a consolidated basis.

Section 6b. If a shipping company does not meet the condition in section 6a(1), cf. however section 6a(2) and (3), income from the – viewed in relation to the basis for the assessment, cf. section 6a(1), 2nd to 4th clauses – further share of the gross tonnage owned by the shipping company and used for purposes which could be covered by this act and which is registered outside the EU and EEA is liable for taxation according to the general regulations of tax legislation. The income from the further share of the gross tonnage shall be determined as the share of the total gross income before depreciation and financial items determined according to the general regulations of tax legislation, corresponding to the relationship between the further share of the gross tonnage on the one hand, cf. 1st clause, and the total gross tonnage owned by the shipping company and used for purposes which could be covered by this act on the other hand.

Section 7. If the gross tonnage which a shipping company has at its disposal from leased ships on average during an income year is greater than ten times the gross tonnage owned by the shipping company itself, income from the excess part of the leased tonnage shall be liable to taxation according to the general regulations of tax legislation. The excess income shall be determined as the share of the total gross income before depreciation and financial items calculated according to the general regulations of tax legislation, corresponding to the relationship between, on the one hand the part of the leased tonnage which exceeds ten times the own tonnage and, on the other hand, the total tonnage available.

Subsection 2. For group shipping companies not covered by section 3(1), 2nd clause, the relationship between own tonnage and leased tonnage may be assessed for the shipping companies together.

Subsection 3. Ships which are leased without crew shall, when applying subsection 1, be equivalent to ships owned by the shipping company. This shall also apply to ships which are leased with crews when the ships are leased for a period of at least one year and no more than seven years and when a right of purchase is agreed at the time of signing of the lease by which the lessee no later than at the expiry of the lease may acquire the ship at no more than the market price when acquiring the right of purchase.

Section 8. Income from the following types of activities shall not be covered by section 6:

1) Feasibility studies, exploration or extraction of hydrocarbons or other natural resources.
2) Fishing and processing activities.
3) Construction and repair of harbours, piers, bridges, oil installations, wind farms or other offshore installations, laying of pipelines on the seabed, dredging, boulder removal, suction dredging or similar activities.
4) Diving activities.
5) Pilotage when the ships are used in and around ports.
6) Towage etc. This shall not, however, apply in cases where the ship carries out towage and salvage activities at sea no less than 50 per cent of the time the ship is in service during an income year. It shall be a condition that the ship is registered in an EU or EEA Member State. When applying the 2nd clause, waiting time shall be divided proportionately between time spent on towage and salvage activities at sea, and time spent on other activities. Towage activities, etc. carried out in or around ports or which consist of assisting self-propelled vessels in berthing shall not be considered to be carried out at sea.
7) Passenger service in or across port entrances, etc.
8) Training activities, social and educational activities, etc.
9) Museum activities and preservation of ships.
10) Sports, excursion and leisure purposes.

11) Use of ships lying permanently at anchor, regardless of the purpose.

Subsection 2. Dredgers, floating cranes, floating docks, cable drums, drilling platforms, floating containers and similar material shall not be considered as ships according to this act. The same shall apply to barges and lighters unless they are cargo-carrying and have a gross tonnage of or above 2,000 t.

Calculation of income under the tonnage taxation scheme

Section 9. Shipping companies which earn income covered by the tonnage taxation scheme and at the same time earn other income shall determine income subject to the tonnage taxation scheme and other income separately.

Section 10. Income is eligible under the tonnage taxation scheme when it may be related to transport services supplied when using ships as mentioned in section 6 or services in close connection with this, cf. subsection 2.

Subsection 2. In addition to supply of transport services as mentioned in subsection 1, the income concerning the following types of activities shall be eligible to taxation under the tonnage taxation scheme when such activities are carried out in close connection with the supply of transport services covered by the tonnage taxation scheme:

1) Use of containers.
2) Operation of loading, unloading and maintenance facilities.
3) Operation of ticket offices and passenger terminals.
4) Operation of office facilities, etc.
5) Sale of goods for on-board consumption.
6) A calculated market rent of the shipping company's own use of rooms/premises on board.
7) Rental income when renting out rooms on board.
8) (Left out)[2]
9) Sale of ships covered by the tonnage taxation scheme in whole or partly, cf. however section 16(3), or that may be covered by the tonnage taxation scheme in whole or partly, but have not yet been finalised to such an extent that they can form part of the ship's operation as well as sale of or giving up the right under an agreement on delivery of a ship that could be covered in whole or partly by the tonnage taxation scheme, cf. however section 16(5), the third clause.

Subsection 3. The company's other income shall be determined according to the general regulations of tax legislation and shall, with the income according to subsections 1 and 2, constitute the company's total income liable for taxation.

Section 11. If remuneration for a total transport service covers transport as referred to in section 10(1) and (2) as well as other transport services, the total remuneration according to this act shall be liable for taxation when the company subject to tonnage taxation has entered into an agreement on carrying out these

[2] The amendments adopted, cf. act no. 539 of 6 June 2007, of the condition whereby the gross tonnage of hired ships may be covered by the tonnage taxation scheme, cf. section 7(1) of the tonnage taxation act (*tonnageskatteloven*), and whereby the income from the administration of ships pools may be covered by the tonnage taxation scheme, cf. section 10(2)(viii) of the tonnage taxation act (*tonnageskatteloven*), have not yet entered into force in Denmark. Reference is made to section 2(1) and (2) of act no. 539 of 6 June 2007.

other transport services with another transport enterprise. If the shipping company subject to tonnage tax itself carries out other transport services, the part of the remuneration concerning these other services shall be liable for taxation according to the general regulations of tax legislation.

Section 12. Net financial expenses after any allowance reduction under section 11 B of the corporation tax act (*selskabsskattelov)* and net financial income shall be taxed according to the general regulations of tax legislation.

Subsection 2. Gains and losses on contracts (forward contracts, etc.) which serve as security for operating income and operating expenses covered by section 10 shall be related to the income which has been secured.

Section 13. Regardless of the provisions on the determination of income liable for taxation according to this act, the person/company liable for taxation shall apply prices and terms for commercial or financial transactions as referred to in section 2(1) of the act on the assessment of income tax to the state (*ligningsloven*) with natural or legal persons and permanent establishments (controlled transactions) in accordance with what could have been achieved if the transactions were undertaken between independent parties. Section 2(2)-(6) of the act on the assessment of income tax to the state (*ligningsloven*) shall apply correspondingly.

Subsection 2. When determining income which, according to sections 11 and 12 or in other ways, shall be related to tonnage taxation or to taxation according to the general regulations, the prices and terms shall be used which could have been achieved if the agreement on transport services or other services or use of facilities, etc. was entered into between independent parties, cf. section 2(1) of the act on the assessment of income tax to the state (*ligningsloven*). Section 3 B of the act on tax control (*skattekontrolloven*) shall apply correspondingly. As regards the time limit for tax assessment, section 26(5) of the tax administration act (*skatteforvaltningslov)* shall apply *mutatis mutandis.*

Subsection 3. In the event of non-compliance with the provisions in subsections 1 and 2, the income liable for taxation shall be regulated in accordance with the provisions of section 2 of the act on the assessment of income tax to the state (*ligningsloven*), regardless of the provisions of this act.

Section 14. (Repealed).

Section 15. For ships, etc. covered by this act, the income liable for taxation shall be calculated on the basis of the net tonnage. Taxable income shall for each ship constitute the following basic amount (2010 level) per 100 net tonnes (NT) per day started, irrespective of whether the ship is operational or not:

1) Up to and including 1,000 NT – DKK 8.97 per 100 NT
2) From 1,001 NT up to and including 10,000 NT – DKK 6.44 per 100 NT
3) From 10,001 NT up to and including 25,000 NT – DKK 3.85 per 100 NT
4) More than 25,000 NT – DKK 2.53 per 100 NT.

Subsection 2. When calculating the income according to subsection 1, deduction shall not be made for tax depreciation on ships or equipment which wholly or partly are covered by the tonnage taxation scheme.

Subsection 3. When calculating the income according to subsection 1, deductions shall not be made according to the general regulations of tax legislation for expenses concerning the income liable for tonnage taxation. If an expense relates to income which may be liable for taxation according to this act as well as

other income, the expense shall be divided proportionately according to the total gross income before depreciation and financial items determined according to the general regulations of tax legislation.

Subsection 4. The basic amounts stipulated in subsection 1 shall be regulated according to section 20 of the personal taxation act (*personskatteloven*). The amounts regulated shall be rounded up to the nearest amount in ører.

Taxation of profits and reversed depreciation

Section 16. When transferring from taxation according to the general regulations of taxation to tonnage taxation, a proportionate distribution shall be carried out of the existing balances according to the act on depreciation (*afskrivningsloven*) based on the carrying amount of the assets which wholly or partly are covered by the tonnage taxation scheme and the carrying amount of other assets. The part concerning assets wholly or partly covered by tonnage taxation shall be included in special transitional balances. Furthermore, amounts liable for taxation according to section 5(2) shall be included. Subsequent expenses for improvements of the said assets shall be added to these balances.

Subsection 2. The purchase price for ships and equipment, respectively, acquired after transfer to tonnage taxation which wholly or partly are used under the tonnage taxation scheme shall be included in special equalisation balances. Subsequent expenses for improvements of the assets in question shall be added to these balances. Shipping companies which from the time of establishment apply the tonnage taxation scheme shall not keep equalisation balances unless the shipping company is covered by section 5 or unless section 17(1) applies.

Subsection 3. If a ship or equipment is sold, the sales price shall be deducted from the balance which the asset in question is covered by. For ships the 1st clause shall not apply for amounts exceeding the ship's actual purchase price plus expenses for improvements. Transitional balances and equalisation balances shall be written-down annually by the maximum amount according to the regulations of the act on depreciation (*afskrivningsloven*). If negative transitional balances are equivalent to positive equalisation balances, the equalisation balances shall be written-down on the basis of the net amount. The write-downs shall not become deductions.

Subsection 4. If the transitional balances of the shipping company are negative, section 8 of the act on depreciation (*afskrivningsloven*) shall apply unless the negative balances wholly or partly are matched by equivalent positive equalisation balances. If only a part of negative transitional balances is matched to positive equalisation balances, section 8 of the act on depreciation (*afskrivningsloven*) shall apply to the difference.

Subsection 5. When applying subsections 2 and 4, the conclusion of a binding contract on supply of newly-built tonnage within a maximum time limit of three years shall be equivalent to acquisition of ships. It shall be a condition that a contract is entered into no later than by the end of the following income year and that the tonnage in question is used in the tonnage taxation scheme. When applying subsection 3, selling or surrendering the rights in accordance with a contract on supply of newly-built tonnage, cf. 1st and 2nd clauses, shall be equivalent to selling a ship.

Section 17. If a ship or equipment transfers from other use to whole or part use under the tonnage taxation scheme after the shipping company has entered into the scheme, section 16(1) shall apply correspondingly. If the shipping company applies the tonnage taxation scheme from the time of establishment,

equalisation balances shall be calculated for ships and equipment acquired after the ships and equipment mentioned in the 1st clause have transferred to use under the tonnage taxation scheme and which wholly or partly are used under the scheme.

Subsection 2. If ships or equipment wholly or partly use the tonnage taxation scheme transfer to other use, the assets shall be considered to be depreciated to a maximum extent according to the provisions of the act on depreciation (*afskrivningsloven*). The amount shall be deducted from transitional balances and equalisation balances if the assets are covered by such provisions. The amount shall be added to the balances of the shipping company according to the act on depreciation (*afskrivningsloven*). Section 20(2) shall apply correspondingly.

Section 18. If the right is sold or given up in accordance with a contract on supply of operating equipment which wholly or partly shall be covered by the tonnage taxation scheme, the profit or loss shall thus be included in the calculation of the shipping company's income liable for taxation for the income year in which the sale is carried out. Profit or loss shall be calculated as the difference between the sales price of the right in accordance with the contract and the purchase price of this right.

Subsection 2. If operating equipment is sold which wholly or partly shall be covered by the tonnage taxation scheme, but has not yet been completed to such an extent that it may be included in the operations of the shipping company, profit or loss shall be included in the statement of the shipping company's income liable for taxation for the income year in which the sale is carried out. Profit or loss shall be calculated as the difference between the sales price and the purchase price plus expenses for improvements.

Subsection 3. Subsections 1 and 2 shall not apply to contract for the delivery of ships and ships that shall be wholly or partly covered by the tonnage taxation scheme.

Section 19. Depreciation shall not be carried out on buildings and installations which wholly or partly are covered by the tonnage taxation scheme. The provisions of the act on taxation of profit from sale of real property (*ejendomsavancebeskatningsloven*) shall apply correspondingly.

Subsection 2. If buildings or installations transfer from whole or part use under the tonnage taxation scheme to other use, the assets shall be considered as depreciated to the maximum extent according to the provisions of the act on depreciation (*afskrivningsloven*) in the period they were covered by the tonnage taxation scheme.

Section 20. When a shipping company transfers from tonnage taxation to taxation according to the general regulations of tax legislation, the basis for depreciation of assets covered by the transitional balances and equalisation balances shall amount to the sum of the relevant balances. Other assets covered by the tonnage taxation scheme shall be considered to be depreciated to maximum extent according to the provisions of the act on depreciation (*afskrivningsloven*) in the years in which the shipping company was covered by the tonnage taxation scheme.

Subsection 2. If a shipping company has become taxable according to section 1 of the act on corporate income tax (*selskabskatteloven*) because the headquarters have moved to Denmark or because the shipping company has become domiciled in Denmark according to provisions in a double taxation agreement and the shipping company from this date has applied the tonnage taxation scheme, the basis for the depreciation mentioned in subsection 1, 2nd clause, shall be set according to the provisions in section 4A(2) of the act on corporate income tax (*selskabskatteloven*).

Relief for foreign freight taxes

Section 21. If a shipping company has paid freight taxes abroad, these shall be divided between shipping activities subject to tonnage taxation and any other shipping activities in proportion to the tonnage applied. The freight taxes paid from the tonnage-taxed part of the shipping activities may, for each country, be deducted from the part of the tonnage tax calculated according to section 15 due from freight income from the country in question. Any surplus freight tax paid shall not be deducted from or carried forward to be set-off against tax on other income.

Subsection 2. The freight taxes due on the non-tonnage-taxed part of the shipping activities may be deducted from or set-off against tax on other non-tonnage-taxed income according to the provisions in section 33 of the act on the assessment of income tax to the state (*ligningsloven*).

Part 2

Ship management companies

Section 21a. Companies etc. which are liable for tax according to section 1(1)(i) and (ii) or subsection 6 of the act on corporate income tax (*selskabsskatteloven*) and which carry out activities as a ship management company as mentioned in subsection 2 may opt to calculate their taxable income from ship managing activities according to this act. The same shall apply to companies which are liable for taxation according to section 2(1)(a) of the act on corporate income tax (*selskabsskatteloven*) and which carry out activities as a ship management company when these are domiciled in an EU Member State. It is a condition for the application of the regulations in the 1st and 2nd clauses that the ship management company has taken over the full responsibility for the operation of the ship and all liabilities and responsibilities from the owner of the ship according to the ISM Code. Section 2 shall apply correspondingly. Sections 3 and 4 shall apply correspondingly when a ship management company is in the same group as another ship management company or with a shipping company.

Subsection 2. Income shall be covered by the tonnage taxation scheme when it may be related to commercial activities with administration of crew and technical management of ships used for purposes that could be covered by this act. It shall be a condition that the ships have a gross tonnage of or above 20 t and that they are strategically and commercially operated from an EU Member State. It shall be a further condition that the ship management company on average over an income year maintains or increases the percentage of the gross tonnage which is operated by the ship management company and registered in an EU or EEA Member State. The assessment of whether the condition in the 3rd clause is met shall be based on the percentage of the gross tonnage operated by the ship management company and used for purposes which could be covered by this act and which, at the time when the ship management company is covered by the tonnage taxation scheme, is registered in an EU or EEA Member State. The 3rd clause shall not apply, if – for all ship management companies covered by this act – the percentage of the operated gross tonnage used for purposes which could be covered by this act and which is registered in an EU or EEA Member State has not fallen on average during the previous income year. The 3rd clause shall not apply either if on average over the income year at least 60 per cent of the gross tonnage operated by the ship management company and used for purposes which could be covered by this act is registered in an EU or EEA Member State. Section 6a(4) shall apply correspondingly. If a ship management company does not meet the conditions in the 3rd clause, cf. however the 5th and 6th clauses, section 6b shall apply correspondingly.

Subsection 3. Other income of the ship management company, also in relation to operation of ships, shall be calculated according to the general regulations of tax legislation and shall together with the income according to subsection 2 constitute the company's total income liable for taxation.

Subsection 4. Sections 9 and 12-20 shall apply correspondingly.

Part 3
Regulatory control, entry into force etc.

Section 22. A shipping company which applies the tonnage taxation scheme shall each year in its tax-related financial statements and computations, cf. section 3 of the act on tax control (*skattekontrolloven*), enclose a written statement from an auditor that the conditions in section 3(1) and (2) and section 6(2), 2nd clause, are met. The shipping company shall also each year enclose information on the extent to which the gross tonnage owned by the shipping company during the year and used for purposes which could be covered by this act has been registered in or outside an EU or EEA Member State, respectively, cf. section 6a. Furthermore, the shipping company shall in the first year in which the regulations in section 6a may apply enclose information on the percentage of the gross tonnage owned by the shipping company and used for purposes which could be covered by this act and which on the base date, cf. section 6a(1), 2nd-4th clauses, was registered in an EU or EEA Member State.

Subsection 2. When leasing out ships, cf. section 6(2), it shall be a condition for applying the tonnage taxation scheme that the lessee according to the lease contract may solely use the ship for purposes which could be covered by this act and that an auditor shall make an annual statement that the conditions in section 6(2), 1st clause, are met.

Subsection 3. With regard to ship management companies it shall be a condition for applying the tonnage taxation scheme, cf. section 21a, that the owner or lessee of the ship according to the operating contract solely may use the ship for purposes which could be covered by this act. It shall be a further condition that the contract states from which state the ship is operated strategically and commercially and in which state the ship is registered.

Subsection 4. A ship management company applying the tonnage tax act (*tonnageskatteloven)* shall each year in its tax-related financial statements and computations, cf. section 3 of the act on tax control (*skattekontrolloven*), enclose a written statement from an auditor that the conditions in section 3(1) and (2) are met. The ship management company shall also each year enclose information on the extent to which the gross tonnage operated by the company during the year and used for purposes which could be covered by this act has been registered in or outside an EU or EEA Member State, respectively, cf. section 21a(3), 3rd clause, cf. 5th and 6th clauses. Furthermore, the ship management company shall in the first year in which the regulations in section 21a may apply enclose information on the percentage of the gross tonnage operated by the company and used for purposes which could be covered by this act and which on the base date, cf. section 21a(2), 4th clause, was registered in an EU or EEA Member State.

Section 23. This act shall enter into force on the day following its promulgation in the Danish Law Gazette and shall take effect from and including the 2001 income year.

Subsection 2. Shipping companies which could opt for the tonnage taxation scheme from the time when this act takes effect may elect application of the scheme no later than the due date for submission of the tax return for the second income year in which the scheme could be applied. If tonnage taxation has not been

opted for on the due date for submitting the tax return for the other/second income year in which the scheme could be applied, the 10-year period shall be calculated according to section 2(2) from and including the income year in which this act takes effect.

Section 24. This act shall not apply to the Faeroe Islands and Greenland.

Ministry of Taxation, 6 August 2015

Jens Brøchner / Lise Bo Nielsen