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Exempt from public disclosure Freedom of Information Act, section 13, Tax Administration Act, section 3-1, Tax Payment Act, section 3-2

Compliance with tax rules for vessels operating in the Svalbard zone and associated companies

This document concerns the tax liability of vessels operating around Svalbard. It covers the tax liability of companies involved in vessel operations and the employees on board. The document has been prepared by agreement between the Svalbard tax office and AECO to clarify the tax rules applicable within the Svalbard Zone.

Svalbard is a tax jurisdiction that is not part of tax treaties or the EEA framework. This makes it necessary to clarify the tax obligations that apply to companies with vessels and employees operating in the Svalbard Zone.

1. Taxation area

The taxation area of Svalbard is limited to 12 nautical miles from islands, islets, and skerries between 10 and 35 degrees east of Greenwich and between 74* and 81* degrees north latitude¹.

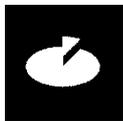
There is no adjacent zone around Svalbard. The tax liability to Svalbard is therefore limited to 12 nautical miles from Svalbard's islands, islets, and skerries.

2. Companies

2.1 Tax liability of companies on Svalbard

2.1.1 Companies resident on Svalbard

¹ The Svalbard Tax Act, section 1-1, the Svalbard Act, section 1, the Act of 27 June 2003 relating to Norway's territorial waters and contiguous zone sections 1, 2, 4, 5



Companies resident on Svalbard are, as a general rule, liable to tax in Svalbard on all their income. Business activities carried out outside Svalbard are exempt from tax if the income is taxable under other Norwegian taxation or in another state.²

2.1.2 The 30-day rule – companies

Companies that are resident outside Svalbard must pay tax on income earned from business activities carried out on Svalbard if the activity lasts continuously for at least 30 days.³

2.1.3 Breach of the 30-day rule

The Svalbard tax office interprets the days referred to in section 2-4 of the Svalbard Tax Act as full 24-hour periods.

If the business activity on Svalbard does not cease for at least one full day, the 30-day period is not considered broken. The vessel is then within the 12-mile zone on each of the relevant days. This interpretation means that the business activity must be outside the 12-mile zone between 00:00 and 24:00 for the 30-day period to be considered broken.

The wording of section 2-4 of the Svalbard Tax Act means that it is the continuous business activity that must be assessed, not merely the presence within the 12-mile zone.

This means that it must be assessed whether the business activity within Svalbard's 12-mile zone has ceased by leaving the tax zone for a short period. The starting point, as we understand it, is that the business activity and whether it is continuous must be assessed specifically in each case.

Example:

There will be several cases where a business activity continues on Svalbard even if the vessel leaves the Svalbard Zone for more than 24 hours. For example, a craftsman employed by Hammer AS has an assignment on Svalbard lasting 35 days. During the assignment, the craftsman must travel away from Svalbard for two days due to personal reasons before returning to complete the work. In such a situation, the business activity on Svalbard will not be considered to have ceased. The employee still has an assignment on Svalbard that is not completed. Even though the employee was outside the Svalbard Zone, the business activity is still ongoing within the Svalbard Zone.

In such cases, it must be assessed individually whether the continuous business activity is broken by leaving the Svalbard Zone. The company may contact the Svalbard tax office for an assessment of whether the company's continuous business activity on Svalbard is considered broken.

2.1.4 Avoidance

² The Svalbard Tax Act, section 2-3

³ The Svalbard Tax Act, section 2-4



Departures from the taxable area for the purpose of avoiding tax will not be considered to break the 30-day rule.⁴The company will in such cases be considered to carry out business activity on Svalbard if the company meets the requirement of 30 days of continuous activity within the Svalbard Zone, regardless of the departure.

2.2 Exemptions from the tax liability of companies

2.2.1 Vessels in international traffic

Income from business activities arising from owning or operating vessels in international traffic will be exempt from taxation in Svalbard provided that the ownership share of individuals or legal entities resident on Svalbard does not exceed 34 percent.⁵

For international traffic, cross-border activity is required. To qualify for the exemption under section 2-34 of the Taxation Act, the company's business activity must therefore be cross-border.

The exemption can only be applied if the taxpayer substantiates that the conditions are met. The definition of international traffic is further explained in RT-2015-1360:

The following is an unofficial translation of RT-2015-1360 (92) and is provided for information purposes only:

The term "international traffic" therefore includes cases where the vessel calls at ports in different states. The preparatory works specify that transport between Norwegian ports is excluded. In other words, cross-border activity is generally required. The preparatory works further state that "transport of supplies or operation of tugboats or similar vessels" related to business activities on the Norwegian or foreign continental shelf is excluded from the term. Taken together, this indicates that shipping activities to and from one and the same state's continental shelf are excluded. The preparatory works that have subsequently been introduced through various legislative amendments do not, in my opinion, provide any additional significant contribution to the interpretation.

Calls at Svalbard from ports on the Norwegian mainland will, in the opinion of the Svalbard tax office, be regarded as vessels engaged in international traffic.

2.3 Tax liability for different types of companies in the Svalbard Zone

2.3.1 Shipowners

2.3.1.1 Shipowners resident on Svalbard

Shipowners resident on Svalbard are generally liable to tax in Svalbard on all income and wealth.

⁴ The Svalbard Tax Act section 3-2, see the Taxation Act section 13-2

⁵ The Svalbard Tax Act section 3-2, see the Taxation Act section 2-34



Charter income from vessels is taxed where the company is resident. In this case, it is allocated to Svalbard.

2.3.1.2 Shipowners not resident on Svalbard

For shipowners not resident on Svalbard, the Svalbard tax office understands this as the shipowner (Company A) not being resident on Svalbard but making a vessel available to Company B, which operates within the Svalbard Zone.

Chartering on such terms must, in the tax office's view, be considered passive capital income and does not generate business activity in the Svalbard Zone during the period the vessel operates on Svalbard. As the tax office understands the activity, the company's business will be considered to take place where the company is resident.

2.3.2 Ship management

For ship management, the Svalbard tax office understands this as the company operating and managing a vessel on behalf of the shipowner. Such a company may have various functions for the shipowner, including maintenance, procurement, contract negotiations, and crewing. The functions the company performs for the shipowner in connection with business activity in the Svalbard Zone may affect tax liability. This must be assessed specifically in each case.

The company may contact the Svalbard tax office for an assessment of whether the company's business activity is taxable in Svalbard.

2.3.3 Crewing companies

Companies that provide crew for vessels will be liable to tax in Svalbard if the company hires out crew for more than 30 consecutive days.

The Ministry of Finance's statement in UFIN-2007-4412 specifies that tax liability in connection with crewing must distinguish between the hiring out of labour and the mere placement of employees. The following translation, and any other translations of the statement, are provided for information purposes only. The starting point is that "the labour hirer has, under private law, an employer relationship with the employee, whereas the employment agency does not."

The statement clarifies section 2-3 (1) of the Taxation Act. The corresponding provisions for Svalbard are sections 2-2 and 2-4 of the Svalbard Tax Act. The statement must be read as a clarification of these provisions in the Svalbard Tax Act.

In the opinion of the Svalbard tax office, the statement applies to individuals and companies that are not resident on Svalbard.⁶

⁶ Applies to Svalbard Tax Act section 2-2 and section 2-4.



The statement further notes that "In the case of genuine labour hire, the workplaces of the posted employees with Norwegian principals cannot in themselves be regarded as a permanent establishment for the foreign employer." Tax liability to Svalbard is not limited by the use or definition of the term "permanent establishment." According to Innst. O. no. 2 (1996–1997), it is sufficient to carry out business activity for 30 days within Svalbard's taxation area to be liable to tax in Svalbard.

On this basis, crewing companies that, under private law, have an employment relationship with the employee are considered to be carrying out business activity in Svalbard. Companies that merely place employees without an employment contract between the employee and the crewing company will not be regarded as liable to tax in Svalbard.

2.3.4 Shipowners providing vessels and crew

If a shipowner carries out business activity by chartering a vessel and providing crew for another company, whether for a period or for a voyage, a combined assessment must be made of both section 2.3.1 and section 2.3.3.

2.3.5 Ship operators leasing vessels from owners

A ship operator that has leased a vessel from its owner will be liable to tax in Svalbard if the business activity is conducted within the Svalbard Zone for more than 30 days.

2.3.6 Foreign tour operators contracting directly with consumers/tourists

Tour operators that come to Svalbard for shorter expeditions will be liable to tax in Svalbard if the business activity within the Svalbard Zone lasts for more than 30 consecutive days. The period is calculated from the day the business activity starts until the day the business ends within the Svalbard area.

3 Individuals

3.1 Tax liability for individuals and self-employed persons

3.1.1 Individuals resident on Svalbard

3.1.1.1 Global tax liability

Individuals who take up permanent residence on Svalbard, defined as a stay exceeding 12 months, become liable to tax in Svalbard on all income and wealth. Individuals who have not been resident in Norway or Svalbard during the ten years preceding their stay on Svalbard will have limited tax liability for the first five years.⁷

Tax liability continues until the individual has stayed outside Svalbard for more than 183 days

⁷ The Svalbard Tax Act, section 2-1



during a 12-month period.

Residents of Svalbard must pay tax to Svalbard on all their income and wealth. Salary and other remuneration for work performed outside Svalbard are exempt from tax if it can be substantiated that the income is taxable under other Norwegian taxation or in another state. Salary and other remuneration for work performed within the Svalbard Zone are, however, taxable to Svalbard regardless of the length of stay in the Svalbard Zone.

The employee is therefore liable to tax in Svalbard for work performed within the Svalbard Zone, irrespective of the 30-day rule, which applies to individuals not resident on Svalbard.

Companies with employees resident on Svalbard are obliged to report the employee's salary through the withholding tax scheme on Svalbard.⁸ The company must have a Norwegian organisation number in order to withhold and pay tax on the employee to the Tax Administration.

3.1.1.2 Challenges with employees subject to global tax liability

Reporting under the withholding tax scheme is an administrative burden for a company that is not liable to tax in Svalbard but has employees who are resident on Svalbard. In such cases, the company is required to report and withhold tax on salary income for certain employees to Svalbard without being obliged to report business income to Svalbard.

Self-employed persons are themselves responsible for reporting income and tax to the tax authorities.

3.1.2 Individuals not resident on Svalbard

3.1.2.1 Limited tax liability

Individuals who take temporary residence on Svalbard and carry out work or business activities there must pay tax to Svalbard on income earned from such work or business activities if the stay lasts continuously for at least 30 days.⁹

Companies with employees who stay continuously for at least 30 days on Svalbard are obliged to report salary and withhold tax on those employees through the withholding tax scheme on Svalbard.¹⁰ The company must have a Norwegian organisation number in order to withhold and pay tax on the employee to the Tax Administration.

3.1.2.2 Breach of the 30-day rule

⁸ The Svalbard Tax Act, section 5-2

⁹ The Svalbard Tax Act, section 2-2

¹⁰ The Svalbard Tax Act, section 5-2



The rule on 30 consecutive days of residence on Svalbard is applied so that any interruption in the stay on Svalbard breaks the period. If the company leaves the Svalbard Zone due to its business activities, this will interrupt the continuous stay on Svalbard for the individual taxpayer, regardless of how long the company has been outside the Svalbard Zone.

3.1.3 Self-employed persons

As a general rule, tax liability for self-employed persons follows where the person resides. If the self-employed person resides on Svalbard, all wealth and income are taxable to Svalbard (global tax liability). If the self-employed person is not registered as a resident on Svalbard, they will only be liable to tax in Svalbard if the business activity is conducted for more than 30 consecutive days within the Svalbard Zone (limited tax liability).

Whether business activity as a self-employed person is interrupted by shorter stays outside the Svalbard Zone (12 nautical miles) must be assessed in each individual case. It is clear that if the self-employed person is not outside the Svalbard Zone for more than a full day (from 00:00 to 23:59), the business activity within the Svalbard Zone will not be regarded as interrupted.

The self-employed person may contact the Svalbard tax office for a more detailed assessment in such cases.

4 Reporting obligations

4.1 Reporting to the Governor of Svalbard

Companies are required to apply to the Governor of Svalbard for field or tour arrangements pursuant to section 9 of the Regulations on Safety in the Field etc. on Svalbard. As this falls outside the responsibility of the tax office, it is not elaborated further.

The Governor of Svalbard automatically informs the Svalbard Tax Administration of which companies/operators have submitted applications.

4.2 Reporting to the Tax Administration

4.2.1 Reporting taxable activity

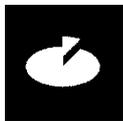
If the company is liable to tax in Svalbard for the business activities carried out, the company must contact the Svalbard tax office to have advance tax assessed.¹¹

4.2.2 Reporting taxable income

4.2.2.1 Obtaining an organisation number

If the company is liable to tax in Svalbard for its business activity and does not have an

¹¹ Regulations on Safety in the Field etc. on Svalbard, section 5



organisation number, the company must register a Norwegian-registered foreign company (NUF) and will be assigned an organisation number. A contact person must be associated with the organisation number. The contact person must either obtain a Norwegian D number or already have one, or alternatively a national identity number.

Registration of a NUF and assignment of an organisation number must be done via Brreg.no. The company's contact person can also request a D number from the Brønnøysund Register Centre (Brreg.no). Guidance on registering a NUF is available here: <https://info.altinn.no/en/start-and-run-business/planning-starting/registration-of-the-enterprise/starting-a-norwegian-branch-of-a-foreign-company-nuf/>

4.2.2.2 Submitting the tax return

To submit a tax return in Norway, it must be submitted via a third-party system. If the company does not have such a system, it is recommended to contact an accountant who can submit the tax return on behalf of the company.

If the company does not wish to hire an accountant, it is still required to obtain an annual accounts/accounting system that can submit the tax return on its behalf.

4.2.3 Reporting salary income for employees under the withholding tax scheme for Svalbard

If the company's employees are liable to tax on income earned in the Svalbard Zone, this must be reported through the a-melding. The a-melding can be submitted manually or via a payroll system.

5 Double taxation

5.1 Credit deduction

5.1.1 Business activity on Svalbard for companies and employees resident on Svalbard

If a company resident on Svalbard, or an individual registered as a resident on Svalbard, is subject to taxation of the same income in two jurisdictions (both to Svalbard and another country), the taxpayer may apply for a deduction for tax paid abroad (credit deduction) when submitting the tax return to Svalbard.

5.1.2 Business activity on Svalbard for companies and employees resident abroad

Svalbard does not have tax treaties with other countries. If a company or an individual is subject to taxation of the same income in two jurisdictions (both to Svalbard and another country), the company or the employee must contact their home country to obtain a deduction for tax paid to Svalbard.

6 FAQ

6.1 Examples of tax liability



6.1.1 Introduction

To illustrate tax liability to Svalbard for different types of companies, we have, after consultation with AECO, prepared examples of how tax liability may apply to companies operating in the Svalbard Zone.

6.1.2 Company #1

6.1.2.1 Information about the company

The first example concerns a company with the following characteristics:

The company operates in the Svalbard Zone from May to September and normally stays outside Svalbard's 12 nautical miles for 12 to 23 hours due to the nature of its activities. Furthermore, the vessels are not outside the 12 nautical miles at the same time. It is also stated that the company owns the vessels itself but has hired a crewing company for the crew on the four vessels.

The company is registered in the EU and does not operate in international traffic. Passengers embark and disembark within the Svalbard Zone.

In total, the company's activities involve an assessment of three tax liabilities: the company itself, the crewing company, and the employees on board the vessels. The company can be summarised as follows:

Number of vessels	4
Size	>12 pax
Owns vessel	Yes
Crewing company crew (often Filipino)	Yes
Crewing company or self-employed persons (guides, doctor, etc.)	No
Operation on Svalbard	1 May – 1 Sep
Leaves Svalbard to embark/disembark passengers	No
Includes activities outside 12 nm	Yes
All vessels outside 12 nm at the same time	No
Normal time outside 12 nm	12 to 23 hours
Operator registered	EU
Operates in international traffic	No

6.1.2.2 Assessment of tax liability for Company #1

The company operates on Svalbard from 1 May to 1 September, with vessels travelling outside the Svalbard Zone for 12 to 23 hours due to the nature of its activities, for example, wildlife



observation or travel to positions to observe wildlife.

The company is therefore present on Svalbard for more than 30 days pursuant to section 2-4 of the Svalbard Tax Act. The question is whether the business activity can be regarded as carried out continuously for 30 days.

At least one of the company's vessels remains within the Svalbard Zone at all times. Even though the vessels alternately travel outside the Svalbard Zone, the company's continuous business activity is not considered interrupted. The company's business activity cannot be linked to each individual vessel but must be assessed based on all the company's activities. In addition, the company embarks and disembarks passengers within the Svalbard Zone.

The company will therefore be regarded as carrying out continuous business activity within the Svalbard Zone from 1 May to 1 September and will be liable to tax in Svalbard for business conducted by the four vessels.

6.1.2.3 Assessment of tax liability for crewing company (crew) for Company #1

The crew on the vessels is provided by a Filipino crewing company.

It is clear that the company's business activity is the hiring out of employees. Business activity carried out in the Svalbard Zone is therefore taxable if the business activity is conducted for more than 30 consecutive days. If the crewing company hires out employees who stay continuously on Svalbard for more than 30 days, the company will be regarded as carrying out business activity in the Svalbard Zone.

The exception to the rule applies if the crewing company places employees without an employment contract between the employee and the crewing company. In such cases, this will only be regarded as placement of employees and not genuine business activity by the company. Such business activity will not be taxable to Svalbard. If the company has a genuine employment relationship with the employees, the company will, however, be liable to tax in Svalbard.

6.1.2.4 Assessment of tax liability for employees of Company #1

6.1.2.4.1 Tax liability for employees resident on Svalbard

Individuals who take permanent residence on Svalbard, are registered as resident, and have a stay exceeding 12 months become liable to tax in Svalbard on all income and wealth (global tax liability). Individuals who have not been resident in Norway or Svalbard during the ten years preceding their stay on Svalbard will have limited tax liability for the first five years.¹²

Individuals with global tax liability to Svalbard pay tax on all income and wealth earned within

¹² The Svalbard Tax Act, section 2-1



Svalbard to Svalbard, regardless of the 30-day rule. A person becomes globally liable to tax in Svalbard if they have moved to Svalbard from mainland Norway and have lived, or intend to live, on Svalbard for more than 12 months, or have moved to Svalbard from abroad and have lived on Svalbard for more than five years.

If the employee is globally liable to tax in Svalbard, the company responsible for paying salary must report the income via the A-melding to the Tax Administration for the employee. To report via the A-melding, the company must have a Norwegian organisation number.

6.1.2.4.2 Tax liability for employees with temporary stay within the Svalbard Zone

Employees who do not reside on Svalbard will be liable to tax for the part of the income earned where the vessel has been within the Svalbard Zone for more than 30 consecutive days.

If the vessel leaves the Svalbard Zone for 12 to 23 hours before 30 days have passed, the employees will not be liable to tax in Svalbard for work performed within the Svalbard Zone. The 30-day rule will in this case be regarded as broken for the employees on the vessel.

If the employee becomes liable to tax in Svalbard, the company responsible for paying salary must report the income via the A-melding to the Tax Administration for the employee. To report via the A-melding, the company must have a Norwegian organisation number.

6.1.3 Company #2

6.1.3.1 Information

The second example concerns a company with the following characteristics:

The company operates in the Svalbard Zone from June to September and normally stays outside the Svalbard Zone for 12 hours due to the nature of its activities. When outside the Svalbard Zone, both vessels are outside the zone. Both the vessels and the crew are hired to carry out the company's activities. The company also has self-employed persons on board. The company is registered in the EU and operates in international traffic. Passengers embark and disembark outside the Svalbard Zone. For example, passengers embark in Norway or the Netherlands before the vessel travels within the Svalbard Zone and then returns to a port outside Svalbard for disembarkation.

In total, the company's activities involve an assessment of five tax liabilities: the company itself, the company that owns the vessels, the crewing company, the self-employed persons, and the employees on board the vessels. The company can be summarised as follows:

Number of vessels	2
Size	>12 pax



Owns vessel	No
Crewing company crew (often Filipino)	Yes
Crewing company or self-employed persons	Yes
Operation on Svalbard	1 June – 1 Sep
Leaves Svalbard to embark/disembark passengers	Yes
Includes activities outside 12 nm	Yes
All vessels outside 12 nm at the same time	Yes
Normal time outside 12 nm	12 hours
Operator registered	EU
Operates in international traffic	Yes

6.1.3.2 Assessment of tax liability for Company #2

The company operates on Svalbard from 1 June to 1 September, with vessels staying outside the Svalbard Zone for 12 hours due to the nature of its activities, for example, wildlife observation.

The company is therefore present on Svalbard for more than 30 days pursuant to section 2-4 of the Svalbard Tax Act.

However, the company leaves Svalbard to embark and disembark passengers. The company must therefore be regarded as operating in international traffic since it calls at ports in another tax jurisdiction. If the company is not owned more than 34 percent by persons resident on Svalbard, the company will fall under the exemption for vessels in international traffic. This is because the company is not required to *"pay tax on wealth in, and income gained from, the ownership and operation of own or chartered vessels in international traffic."*¹³

6.1.3.3 Assessment of tax liability for the company owning the vessels used by Company #2

This is because the company is not required to *"pay tax on wealth in, and income gained from, the ownership and operation of own or chartered vessels in international traffic."*¹⁴

6.1.3.4 Assessment of tax liability for crewing company (crew) for Company #2

The crew on the vessels is provided by a Filipino crewing company.

It is clear that the company's business activity is the hiring out of employees. Business activity carried out in the Svalbard Zone is therefore taxable if the business activity is conducted for more

¹³ The Taxation Act section 2-34, see also the Svalbard Tax Act section 3-2. (Translation based on unofficial version; for information purposes only).

¹⁴ The Taxation Act section 2-34, see also the Svalbard Tax Act section 3-2 (Translation based on unofficial version; for information purposes only.)



than 30 consecutive days. If the crewing company hires out employees who stay continuously on Svalbard for more than 30 days, the company will be regarded as carrying out business activity in the Svalbard Zone.

It is further noted that the vessel is in international traffic. Since the crew on board is also engaged in international traffic, the crewing company will be exempt from tax liability: "[any company shall not] pay tax on wealth in, and income gained from, the ownership and operation of own or chartered vessel in international traffic."¹⁵ The Svalbard tax office understands the crew's activities as related to the operation of a chartered vessel.

If the crewing company has a genuine employment relationship with the employees, the company will still not have tax liability to Svalbard if the vessel is in international traffic.

6.1.3.5 Assessment of tax liability for self-employed persons hired on the vessel

Tax liability to Svalbard must be assessed individually for each self-employed person.

If the self-employed person is not resident on Svalbard, an assessment must be made as to whether the business activity can be regarded as falling under "operation of own or chartered vessel in international traffic." This requires an individual assessment, and we recommend that the self-employed person contact the Svalbard tax office for a more detailed assessment of tax liability.

For example, the Svalbard tax office does not consider guiding activities carried out by a self-employed person to fall under "pay tax on wealth in, and income gained from, the ownership and operation of own or chartered vessel in international traffic" as set out in section 2-34 of the Taxation Act, see also section 3-2 of the Svalbard Tax Act. For guiding activities, the self-employed person must comply with the 30-day rule within the Svalbard Zone or contact the tax office for an assessment of whether the business activity ceases if the company is outside the Svalbard Zone for 12 hours.

6.1.3.6 Assessment of tax liability for employees of Company #2

6.1.3.6.1 Tax liability for employees resident on Svalbard

Individuals who take permanent residence on Svalbard, are registered as resident, and have a stay exceeding 12 months become liable to tax in Svalbard on all income and wealth (global tax liability). Individuals who have not been resident in Norway or Svalbard during the ten years preceding their stay on Svalbard will have limited tax liability for the first five years¹⁶

¹⁵ The Taxation Act section 2-34, see also the Svalbard Tax Act section 3-2. (Translation based on unofficial version; for information purposes only).

¹⁶ The Svalbard Tax Act, section 2-1



Individuals with global tax liability to Svalbard pay tax on all income and wealth earned within Svalbard to Svalbard, regardless of the 30-day rule. A person becomes globally liable to tax in Svalbard if they have moved to Svalbard from mainland Norway and have lived, or intend to live, on Svalbard for more than 12 months, or have moved to Svalbard from abroad and have lived on Svalbard for more than five years.

If the employee is globally liable to tax in Svalbard, the company responsible for paying salary must report the income via the A-melding to the Tax Administration for the employee. To report via the A-melding, the company must have an organisation number.

6.1.3.6.2 Tax liability for employees with temporary stay within the Svalbard Zone

Employees who do not reside on Svalbard will be liable to tax for the part of the income earned where the vessel has been within the Svalbard Zone for more than 30 consecutive days.

If the vessel leaves the Svalbard Zone for 12 hours before 30 days have passed, the employees will not be liable to tax in Svalbard for work performed within the Svalbard Zone. The 30-day rule will in this case be regarded as broken for the employees on the vessel.

6.1.4 Company #3

6.1.4.1 Information

The third example concerns a company with the following characteristics:

The company operates in the Svalbard Zone from 1 May to 1 July and normally stays outside Svalbard for 24 to 48 hours due to the nature of its activities. Both the vessels and the crew are hired for the company's activities in the Svalbard Zone. The company also has self-employed persons on board. The company is registered in the EU and operates in international traffic. Passengers embark and disembark outside the Svalbard Zone.

In total, the company's activities involve an assessment of four tax liabilities: the company itself, the crewing company, the self-employed persons, and the employees on board the vessels. The company can be summarised as follows:

Number of vessels	2
Size	>12 pax
Owns vessel	Yes
Crewing company crew	Yes
Crewing company or self-employed persons	Yes
Operation on Svalbard	1 May – 1 July



Leaves Svalbard to embark/disembark passengers	Yes
Includes activities outside 12 nm	Yes
All vessels outside 12 nm at the same time	Yes
Normal time outside 12 nm	24 to 48 hours
Operator registered	US
Operates in international traffic	Yes

6.1.4.2 Assessment of tax liability for Company #3

See also the assessment of Company #2.

The company leaves Svalbard to embark or disembark passengers. The company collects its passengers on mainland Norway or in another foreign state and then transports them around Svalbard. The company must therefore be regarded as operating in international traffic since it calls at ports in another tax jurisdiction. If the company is not owned more than 34 percent by persons resident on Svalbard, the company will fall under the exemption from tax liability in section 2-34 of the Taxation Act, see also section 3-2 of the Svalbard Tax Act. This is because the company is not required to *"pay tax on wealth in, and income gained from, the ownership and operation of own or chartered vessels in international traffic."*

Both companies leave Svalbard to embark or disembark passengers. The business activity carried out by the company is therefore connected to several tax jurisdictions. The Svalbard tax office understands the company's business activity as related to the operation of vessels in "international traffic".

6.1.4.3 Assessment of tax liability for crewing company (crew)

See also the assessment of Company #2.

The crew on the vessels is provided by a Filipino crewing company.

Companies that provide crew for vessels will be liable to tax in Svalbard if the company hires out crew that carries out business activity within the Svalbard Zone continuously for more than 30 days. It is clear that the company's business activity is the hiring out of employees.

If the crewing company places employees without an employment contract between the employee and the crewing company, it will not be regarded as liable to tax in Svalbard. If the company has a genuine employment relationship with the employees, the company will generally be liable to tax in Svalbard.

It is further noted that the vessel is in international traffic. Since the crew on board is also engaged in international traffic, the crewing company will be exempt from tax liability pursuant to section 3-2 of the Svalbard Tax Act, see also section 2-34 of the Taxation Act: (Companies shall not) *pay*



tax on wealth in, and income gained from, the ownership and operation of own or chartered vessel in international traffic." The Svalbard tax office understands the crew's activities as related to the operation of a chartered vessel.

If the crewing company has a genuine employment relationship with the employees, the company will still not be liable to tax in Svalbard if the vessel is in international traffic.

6.1.4.4 Assessment of tax liability for self-employed persons hired on the vessel

Tax liability to Svalbard must be assessed individually for each self-employed person.

If the self-employed person is not resident on Svalbard, an assessment must be made as to whether the business activity can be regarded as falling under "operation of own or chartered vessel in international traffic." This requires an individual assessment, and we recommend that the self-employed person contact the Svalbard tax office for a more detailed assessment of tax liability.

For example, the Svalbard tax office does not consider guiding activities carried out by a self-employed person to fall under "pay tax on wealth in, and income gained from, the ownership and operation of own or chartered vessel in international traffic" as set out in section 2-34 of the Taxation Act, see also section 3-2 of the Svalbard Tax Act. For guiding activities, the self-employed person must comply with the 30-day rule within the Svalbard Zone or contact the tax office for an assessment of whether the business activity ceases if the company is outside the Svalbard Zone for 12 hours.

6.1.4.5 Assessment of tax liability for employees of company #3

6.1.4.5.1 Tax liability for employees resident on Svalbard

Individuals who take permanent residence on Svalbard, are registered as resident, and have a stay exceeding 12 months become liable to tax in Svalbard on all income and wealth (global tax liability). Individuals who have not been resident in Norway or Svalbard during the ten years preceding their stay on Svalbard will have limited tax liability for the first five years.¹⁷

Individuals with global tax liability to Svalbard pay tax on all income and wealth earned within Svalbard to Svalbard, regardless of the 30-day rule. A person becomes globally liable to tax in Svalbard if they have moved to Svalbard from mainland Norway and have lived, or intend to live, on Svalbard for more than 12 months, or have moved to Svalbard from abroad and have lived on Svalbard for more than five years.

If the employee is globally liable to tax in Svalbard, the company responsible for paying salary must report the income via the A-melding to the Tax Administration for the employee. To

¹⁷ The Svalbard Tax Act, section 2-1



report via the A-melding, the company must have a Norwegian organisation number.

6.1.4.5.2 Tax liability for employees with temporary stay within the Svalbard Zone

Employees who do not reside on Svalbard will be liable to tax for the part of the income earned where the vessel has been within the Svalbard Zone for more than 30 consecutive days.

If the vessel leaves the Svalbard Zone for 24 to 48 hours before 30 days have passed, the employees will not be liable to tax in Svalbard for work performed within the Svalbard Zone. The 30-day rule will in this case be regarded as broken for the employees on the vessel.

If the employee becomes liable to tax in Svalbard, the company responsible for paying salary must report the income via the A-melding to the Tax Administration for the employee. To report via the A-melding, the company must have a Norwegian organisation number.

6.1.4.6 Company #4

6.1.4.7 Information about Company #4

The fourth example concerns a company with the following characteristics:

The company operates in the Svalbard Zone from April to October and normally stays outside Svalbard for 27 to 72 hours due to the nature of its activities. At least one of the company's three chartered vessels is within the Svalbard Zone at all times during the period. The company embarks and disembarks passengers on Svalbard, and the employees on board the vessels are the company's own employees.

Number of vessels	3
Size	Mixed
Owns vessel	No
Crewing company crew	No
Crewing company or self-employed persons	No
Operation on Svalbard	25 Apr – 1 Oct
Leaves Svalbard to embark/disembark passengers	No
Includes activities outside 12 nm	Yes
All vessels outside 12 nm at the same time	No
Normal time outside 12 nm	27 to 72 hours
Operator registered	Scandinavia
Operates in international traffic	No



6.1.4.8 Assessment of tax liability for Company #4

The company operates on Svalbard throughout the period from 25 April to 1 October, with vessels travelling outside the Svalbard Zone for 27 to 72 hours. The company's business activity cannot be linked to each individual vessel but must be assessed based on all the company's activities. The fact that chartered vessels leave the Svalbard Zone for 72 hours for activities outside the zone does not mean that the business activity on Svalbard is regarded as interrupted. This is because at least one of the company's vessels remains within the Svalbard Zone at all times.

6.1.4.9 Assessment of tax liability for the company owning the vessels used by Company #4

The company that owns the vessels is, as a general rule, liable to tax for chartering vessels for use in business activity within the Svalbard Zone. The company charters three of its vessels on bareboat terms (only the vessel itself).

Chartering on such terms must, in the tax office's view, be considered passive capital income and does not generate business activity in the Svalbard Zone during the period the vessel operates on Svalbard. As the Svalbard tax office understands such business activity, the business of the company will be regarded as taking place where the company is resident.

6.1.5 Assessment of tax liability for employees of Company #4

6.1.5.1.1 Tax liability for employees resident on Svalbard

Individuals who take permanent residence on Svalbard, are registered as resident, and have a stay exceeding 12 months become liable to tax in Svalbard on all income and wealth (global tax liability). Individuals who have not been resident in Norway or Svalbard during the ten years preceding their stay on Svalbard will have limited tax liability for the first five years.

Individuals with global tax liability to Svalbard pay tax on all income and wealth earned within Svalbard to Svalbard, regardless of the 30-day rule. A person becomes globally liable to tax in Svalbard if they have moved to Svalbard from mainland Norway and have lived, or intend to live, on Svalbard for more than 12 months, or have moved to Svalbard from abroad and have lived on Svalbard for more than five years.

If the employee is globally liable to tax in Svalbard, the company responsible for paying salary must report the income via the A-melding to the Tax Administration for the employee. To report via the A-melding, the company must have a Norwegian organisation number.

6.1.5.1.2 Tax liability for employees with temporary stay within the Svalbard Zone

Employees who do not reside on Svalbard will be liable to tax for the part of the income earned where the vessel has been within the Svalbard Zone for more than 30 consecutive days.

If the vessel leaves the Svalbard Zone for 27 to 72 hours before 30 days have passed, the



employees will not be liable to tax in Svalbard for work performed within the Svalbard Zone. The 30-day rule will in this case be regarded as broken for the employees on the vessel.

If the employee becomes liable to tax in Svalbard, the company responsible for paying salary must report the income via the A-melding to the Tax Administration for the employee. To report via the A-melding, the company must have a Norwegian organisation number.

6.1.6 Company #5

6.1.6.1 Information about Company #5

The fifth example concerns a company with the following characteristics:

The company operates in the Svalbard Zone from 1 May to 20 August. It owns the vessel itself and has not hired employees for crewing. For example, this may be a small company that owns a sailing boat and takes tourists on trips around Svalbard.

The trip does not include excursions outside Svalbard, and the vessel does not leave Svalbard to embark or disembark passengers.

Number of vessels	1
Size	<12 pax
Owns vessel	Yes
Crewing company crew	No
Crewing company or self-employed persons	No
Operation on Svalbard	1 May – 20 Aug
Leaves Svalbard to embark/disembark passengers	No
Includes activities outside 12 nm	No
All vessels outside 12 nm at the same time	No
Normal time outside 12 nm	0
Operator registered	EU
Operates in international traffic	No

6.1.6.2 Assessment of tax liability for Company #5 and its employees

Based on the above, both the company and the employees on board are liable to tax in Svalbard since both the business activity and the employees remain within the Svalbard Zone for more than 30 consecutive days.



6.1.7 Company #6

6.1.7.1 Information about Company #6

The sixth example concerns a case where a vessel leaves the territorial waters for more than 24 hours for the purpose of wildlife experiences, crossing 80 degrees north, or reaching the ice edge. For example, this may be a vessel that embarks passengers on Svalbard, sails to the ice edge at 82 degrees north, and disembarks passengers on Svalbard.

Number of vessels	1
Size	<12 pax
Owns vessel	Yes
Crewing company crew	No
Crewing company or self-employed persons	No
Operation on Svalbard	1 May – 20 Aug
Leaves Svalbard to embark/disembark passengers	No
Includes activities outside 12 nm	Yes
All vessels outside 12 nm at the same time	Yes
Normal time outside 12 nm	24 hours
Operator registered	EU
Operates in international traffic	No

6.1.7.2 Assessment of tax liability for Company #6

The company operates on Svalbard from 1 May to 20 August, with the vessel travelling outside the Svalbard Zone for more than 24 hours at least once every 20 days due to the nature of its activities,
for example, to reach the ice edge, which lies outside the territorial waters.

The company's presence on Svalbard therefore exceeds 30 days, but is interrupted by trips to the ice edge every 20 days. The question is whether the business activity is regarded as interrupted by leaving the Svalbard Zone for 24 hours.

When assessing tax liability, it must be considered whether the "business activity" on Svalbard is interrupted. If the company embarks and disembarks passengers on Svalbard, the assignment starts and ends on Svalbard. If the company remains outside the territorial waters for more than two days, it must be assessed in each individual case whether the 30-day rule is regarded as broken. An enquiry may be sent to the Svalbard tax office for an assessment of this.

6.1.7.3 Assessment of tax liability for employees of Company #6

If the employees do not remain continuously within the Svalbard Zone for more than 30



consecutive days, they will not have tax liability to Svalbard unless they are registered as residents on Svalbard. See section 6.1.4 for an assessment of this.