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Greenland Parliament Act para. 20 of 18 November 2010 to amend Greenland Landsting Act on Income Tax

(Company cars for on-call service scheme, depreciation of licence interests, conversion of enterprises subject to tax on Greenland-source income, transfer of licence interests in return for payment of future exploration costs, tax municipalities and gross tax scheme for certain foreign nationals)

Section 1

The following amendments shall be made to Greenland Landsting Act para. 12 of 2 November 2006 on Income Tax, as most recently amended by Greenland Parliament Act para. 3 of 30 November 2009:

1. The wording "The Act on mineral resources and mineral resource activities" shall be changed throughout the Act to "Greenland Parliament Act on mineral resources and mineral resource activities".

2. The following shall be inserted in section 19 as subsection (9):

"(9) Travel between home and place of work in the vehicles mentioned in subsection (5) is not deemed to be private travel for the taxpayer if the employer has directed the taxpayer in writing to perform the travel in connection with on-call duty."

3. The following shall be inserted in section 22(1) after "Companies, etc": "which are taxable as residents under section 1(1) paras. 3-14 or taxable as non-residents under section 2".

4. The following shall be inserted as new section 22 b:

Section 22 b.-(1) Notwithstanding the rules in section 22, the acquisition cost of licences for prospecting, exploration and exploitation of mineral resources granted under the Greenland Parliament Act on mineral resources and mineral resource activities shall be written off according to the rules in this provision.

(2) Depreciation shall be taken separately for each individual licence or part licence.

(3) Where a licence or part licence is disposed of, depreciation is not permitted for the licence in question in the year of disposal.

(4) The acquisition cost is depreciated by equal amounts annually. Licences for prospecting, exploration and exploitation of hydrocarbons are depreciated over a period of 10 years, while licences for prospecting, exploration and exploitation of minerals are depreciated over a period

of 4 years. The acquisition cost of a licence which at the time of acquisition has a shorter remaining life than the periods specified in the second sentence will be depreciated by equal annual amounts over the remaining life. Depreciation starts in the income year in which the licence or part licence is acquired.

(5) Where a licence or part licence is disposed of for a larger sum than the non-depreciated part of the acquisition cost, the profit shall be included in the taxable income for the year of disposal.

(6) Where a licence or part licence is disposed of for a sum which is less than the non-depreciated part of the acquisition cost, the loss will be deductible in the taxable income for the year of disposal.

(7) Pursuant to section 24(1) para. 1, the Greenland Government (Naalakkersuisut) may lay down rules on depreciation of licences for prospecting, exploration and exploitation of mineral resources."

5. The following new Part is inserted after section 58 before **Part 6**:

"Part 5 a

Conversion, etc.

Section 58 a.-(1) Where an enterprise which is taxable as a non-resident under section 2(2) is converted or transferred to a public or private limited company which is registered as resident in Greenland, the public or private limited company can assume the tax position of the enterprise with limited tax liability. Where the converted or transferred enterprise in question has taken depreciations for tax purposes which are less than the rates specified in section 22(2), its depreciation balances will be reduced to the amounts to which the enterprise's assets could be written down according to the rates specified in section 22(2). The Greenland Government or the party so authorised by the Greenland Government can grant full or partial exemption from the provision in the second sentence under special circumstances.

(2) Succession for tax purposes requires that the public or private limited company takes over all the assets of the enterprise with limited tax liability and steps in as either the entitled or liable party in relation to contracting parties, other public authorities, etc.

(3) The following conditions must also be met:

- 1) The Greenland Government must have approved the transfer of the licence under the provisions of the Greenland Parliament Act on mineral resources and mineral resource activities.
- 2) The conversion or transfer must include all assets and liabilities attributable to the activities of the enterprise with limited tax liability under section 2(2) and may only include such assets and liabilities.
- 3) Within 30 days from the date on which the conversion or transfer is decided on, the successor company must notify the tax authorities of the conversion or transfer and submit documentation that the successor company is registered or filed for registration with the Danish Commerce and

Companies Agency.

4) Regardless of the deadline in section 16(3) of Greenland Landsting Act on Administration of Taxes, the relevant income tax return for the enterprise with restricted tax liability must be submitted within 90 days of the date on which the conversion or transfer is decided on. In the computation of the enterprise's taxable income for the period from the expiry of the last normal income year until the date of conversion or transfer, the income for the entire period is assessed regardless of the length of the period. The assessment is made without taking into account the liquidation of the enterprise with restricted tax liability as part of the conversion or transfer. The successor company must file an income tax return for the period specified in the second sentence. The successor company is liable for any tax claims and for any penalties chargeable to the enterprise with limited tax liability under the provisions of this Act. The successor company will assume any claims by the enterprise with restricted tax liability for surcharges and overpaid taxes against the tax authorities, cf. section 27(5) of the Landsting Act on Administration of Taxes.

5) The enterprise with limited tax liability must not be in arrears with payment of taxes, duties or other public debt, and the relevant tax return must have been filed with the tax authorities for income years which are more than 90 days prior to the date of conversion or transfer.

(4) The Greenland Government may lay down rules on submission of documentation to the tax authorities in connection with conversions and transfers as specified in subsection (1) and also set deadlines for submission of such documentation.

Section 58 b.-(1) Assets and liabilities acquired in connection with the conversion or transfer are treated in the successor company's taxable income as if they were acquired by the latter at the date on which they were acquired by the non-resident company and at the purchase prices at which they were acquired by the non-resident company. Any tax depreciation taken by the non-resident company are deemed to have been taken by the receiving company in the income year in question.

(2) Assets and liabilities acquired by the non-resident company for speculative or trading purposes are treated in the successor 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 the conversion or transfer from the non-resident company to the successor company does not prevent the asset or liability from being deemed as acquired for speculative or trading purposes in the successor company's taxable income.

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

(4) The tax treatment of assets and liabilities which the successor company has not acquired from the non-resident company will not change as a result of the conversion or

transfer provided that the assets and liabilities that can be documented were acquired as part of the conversion or transfer are recorded as separate items in the accounts of the successor 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 non-resident company or the rules applying to the successor company.

Section 58 c.-(1) Where a prospecting or exploration licence for mineral resources or part of such a licence granted pursuant to the Greenland Parliament Act on mineral resources and mineral resource activities is transferred in return for payment where the buyer pays the prospecting or exploration costs related to the transferred licence, the seller may exclude the payment in the taxable income provided the following conditions are met:

- 1) The payment is made by the buyer paying a specific share of the seller's future prospecting and exploration costs before the end of the seller's 5th income year after conclusion of the agreement. The share of the costs may be capped at a maximum amount.
- 2) All costs are deductible as operating expenses for the enterprise which ultimately defrays the costs.

(2) The provision in subsection (1) does not apply to intergroup transfers, cf. section 36 a(4) and (5).

(3) The tax administration may extend the deadline specified in subsection (1) para. 1 by up to 3 years if it can be ascertained that it is impossible to implement the agreement within the prescribed period due to logistics or reasons of nature.

(4) Payment over and above the amount specified in subsection (1) is included in the computation of the seller's taxable income.

(5) Where the buyer pays part of the payment specified in subsection (1) after the expiry of the deadline specified in subsection (1) para. 1, cf. subsection (3), the seller must include this part of the payment in the computation of taxable income in the income year in which it is ascertained that part of the payment will be made after the expiry of the deadline, however, not later than the income year in which the deadline expires."

6. Section 66(1), first sentence shall be worded as follows:

"(1) For the taxable persons specified in section 1(1) paras. 1 and 2, subsection (2) and section 2(1), paras. 1, 3, 4, 5, 6, 17, and subsection (5), second sentence, the income is the taxable income minus personal allowances, cf. section 67, and rounded down to the nearest amount in Danish kroner (DKK) which is divisible by 100."

7. Section 68(2) shall be worded as follows:

"(2) The tax administration will be the tax assessing authority where:
1) the affiliation referred to in subsection (1) is in an area that is not located within any defined municipality

- 2) the taxpayer has been awarded an exploitation licence in accordance with the Greenland Parliament Act on mineral resources and mineral resource activities,
- 3) the taxpayer has been granted a prospecting and exploration licence and only carries out activities pursuant to a licence under the Greenland Parliament Act on mineral resources and mineral resource activities,
- 4) the taxpayer falls within the scope of section 32(3),
- 5) the taxpayer has been awarded an exploitation licence under the Greenland Parliament Act on exploitation of ice and water for export,
- 6) the taxpayer has been awarded a prospecting and exploration licence and only performs activities in accordance with a licence under the Greenland Landsting Act on exploitation of ice and water for export,
- 7) an individual carries out work related to projects, building and construction work, and installation and assembly work outside existing towns and settlements as part of employment duties and the employee has not been liable to tax in a municipality in Greenland within the previous 6 months, or
- 8) an individual is employed by a taxpayer covered by paras. 2-4, and the employee has not been liable to tax in a municipality in Greenland within the previous 6 months."

8. The following shall be inserted after section 72:

Section 72 a.-(1) Taxable individuals who perform work related to projects, building and construction, and installation and assembly work outside existing towns and settlements as part of their employment duties, cf. section 68(2) para. 7, and who have not been liable to tax in a municipality in Greenland within the previous 6 months will pay a final tax (gross tax) to the Treasury of 35 percent on income earned during their employment. No deductions are allowed in the income, nor are losses from previous income years deductible, and section 4 d(2) and section 4 e do not apply. The costs of acquiring, ensuring and maintaining the earned income are non-deductible in other income earned by the taxpayer. The income tax liability on the earned income is met in full by the payment of the tax.

(2) Income earned during employment, cf. subsection (1), includes income taxed at source (A income) and income not taxed at source (B income), however, contributions and premiums to pension and life insurance schemes covered by the provisions in sections 39, 40 or 43 are disregarded.

(3) The provision in subsection (1) shall not apply where an individual receives other A income which is taxable in Greenland.

(4) Where an individual referred to in subsection (1), cf. subsection (3), is taxable on income other than income earned during employment, the other income will be taxed in accordance with the other provisions of this Act.

(5) In the case that 50 percent or more of an individual's total taxable income is taxed in an income year according to the provisions in subsection (1), the provisions in section 4 d(2) and 4 e will not apply.

Section 72 b.-(1) Taxable individuals who mainly perform specific assignments related to prospecting, exploration and exploitation of mineral resources pursuant to the Greenland Parliament Act on mineral resources and mineral resource activities as part of their employment duties and who have not been liable to tax in a municipality in Greenland within the previous 6 months will pay a final tax (gross tax) to the Treasury of 35 percent of salary earned during the employment. No deductions are allowed in the income, nor are losses from previous income years deductible, and sections 4 d(2) and 4 e shall not apply. The costs of acquiring, ensuring and maintaining the earned income are non-deductible in other income received by the taxpayer. The income tax liability on the earned income is met in full by the payment of the tax.

(2) The provisions in section 72 a(2)-(5) shall apply *mutatis mutandis*."

9. In section 76(2), second sentence, the following shall be inserted after "A-tax": ": "cf. however section 72 a(1) and (2) and section 72 b"

10. In section 79(2), first sentence the following shall be inserted after "before withholding is made": ", cf. however section 72 a(1) and (2) and section 72 b".

11. In section 79(4), the following shall be inserted after "sections 61-64": ", section 72 a(1) and section 72 b(1)".

12. Section 86(4) shall be worded as follows:

"(4) The tax is calculated on the total dividend. However, a company which has been awarded a prospecting, exploration or exploitation licence in accordance with Greenland Parliament Act on mineral resources and mineral resource activities may deduct in the calculation of tax the amount by which the company's taxed distributed dividends exceed the company's taxable profits before deductions for distributed dividends. Deductions specified in the second sentence are not deductible in the computation of the taxable income, cf. section 27(1) of the Income Tax Act."

Section 2.-(1) This Greenland Parliament Act shall enter into force on 1 December 2010, cf. however subsections (2) and (3).

(2) Section 1, nos. 2-6 will apply from income year 2010.

(3) Section 1, nos. 7-11 will apply from income year 2011.

Greenland Self-Government, 18 November 2010

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