



Foreign ships visiting Australia

Check requirements for foreign ship operators that carry passengers, livestock, mails or goods shipped in Australia.

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This information is for foreign-based ship operators (owners and charterers of ships) that carry passengers, livestock, mail or goods into Australia.

Here you will learn about how to meet the tax requirements set out in section 129 to 135A in Division 12 of the *Income Tax Assessment Act 1936* (ITAA 1936)

To satisfy our requirements, foreign-based ship operators or their agent must lodge an *Overseas ships - voyage return form* and pay the tax liability we assess.

This tax, commonly referred to within the shipping industry as 'freight tax', is a liability of a ship operator who receives a payment for carriage of goods, livestock, mail, or passengers shipped in Australia. This entity is commonly referred to in the industry as the 'freight beneficiary'.

This tax applies to both non-residents and Australian residents whose principal place of business is outside Australia.

Foreign-based ship operators may be exempt from tax if a tax treaty or double tax agreement exists between their country of residence and Australia.

See also:

- Refer to Taxation Ruling TR 2006/1 *Income tax: the scope of and nature of payments falling within section 129 of the Income Tax Assessment Act 1936*

- These requirements are set out in section 129 in Division 12 of the *Income Tax Assessment Act 1936* (ITAA 1936).
- What are tax treaties?

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Exemptions under other Australian legislation



Exemptions under other Australian legislation do not directly impact Australian tax requirements.

When is a voyage return form required?

When and how to lodge an 'Overseas ships - voyage return' form for foreign ships operating in Australia.

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When a visiting ship derives income from voyages within Australian waters, its operator must lodge an *Overseas ships – voyage return form* with us. Voyages include:

- intra-state
- inter-state
- a ship's departure voyage from its last port-of-call in Australian waters to its first destination outside our waters.

This can include 'transshipment' of cargo and/or paying passengers – that is, transferred from one vessel to another.

A voyage return form is required for **each** visiting vessel that carries passengers, livestock, mail or goods shipped in Australia during a particular income year. In Australia, tax returns, such as voyage returns, are typically prepared for the standard tax year – 1 July to 30 June.

You must provide all the information requested in the *Overseas ships – voyage return form*.

Australian tax laws allow us to determine the amount payable if a voyage return form is not lodged or we consider it unsatisfactory.

How to lodge and pay

The *Overseas ships – voyage return form* is the approved form for foreign-based ship operators to lodge when they have a liability under Division 12 of ITAA 1936.

All amounts on the voyage return need to be expressed in Australian dollars.

You can download this form in Portable Document Format (PDF) – *Overseas ships – voyage return form*. The PDF form is fillable.

The completed form should be sent to ForeignShipping@ato.gov.au

Voyage return information provided in the company tax return form will not be processed as it is not the approved form for this tax.

A notice of assessment will be issued to you after the *Overseas ships – voyage return form* is lodged. Payments can be made after the notice of assessment is issued. The notice of assessment has payment instructions to assist you to pay. You can also refer to our general payment instructions.

What if I can't lodge and pay on time or have difficulty in completing the form

You should email ForeignShipping@ato.gov.au to check whether alternative arrangements can be made.

A penalty may be applied if you fail to lodge on time and a general interest charge will apply to any amount not paid by the due date.

General enquiries

For more information, enquiries should be sent to ForeignShipping@ato.gov.au

Next steps:

- Overseas ships – voyage return form

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How we work out the taxable income

How taxable income is calculated for foreign ships operating in Australia based on carriage-related payments.

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Five per cent of any amount received as payment for carriage of passengers, livestock, mail or goods in Australia, is deemed to be taxable income derived in Australia.

This deemed amount reflects the estimated profit of the shipping activity which is attributable to the Australian shipping activity.

The source of income is based on the **location of the activity**, not where the payment is made or where contracts are signed.

Amounts received for a ship's journey **to** Australia – such as for cargo loaded in an overseas port and transported to an Australian port – is **not** deemed by us to be part of your taxable income.

Contractual arrangements in the shipping industry may vary – for example, a contract may specify potential payments other than the agreed fee or 'freight'. Amounts such as 'demurrage' and 'dispatch (or despatch) money' will affect the total amount received for carriage and therefore amounts deemed to be taxable income derived in Australia.

Income earned from fares of passengers embarking in Australia on a cruise liner or any other visiting ship is also deemed to be part of the ship operator's taxable income.

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Calculating the tax liability

How tax is calculated for foreign ships operating in Australia.

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In most cases, the foreign-based entity that owns and/or operates the ship will be a company.

This means the taxable income declared in the *Overseas ships – voyage return form* is subject to the rate of tax applied to companies in Australia, which is generally 30%. As a result, the tax liability will be

assessed as 30% of the taxable income. If you consider the rate of tax applying in your circumstances is another rate, please let us know on lodgment of the return. This tax liability is commonly referred to within the shipping industry as freight tax.

Example: Operator leases ship

A ship operator, whose principal place of business is in Vanuatu, leases (charters) the ship 'East West' from its owner and trades in carrying alumina between Australia and India. It contracts with an Australian exporter to carry a quantity of alumina to Chennai. The bill of lading provides that the cargo is to be loaded at Port Gladstone and discharged at Port Chennai. The agreed freight is \$50,000, with 75% to be paid on completion of loading in Gladstone, and the balance on discharge of the cargo in Chennai.

In this case, the deemed taxable income of the ship operator is 5% of the whole amount of \$50,000 (\$2,500). It is irrelevant that part of the freight is to be paid outside Australia. The key point is that the cargo was shipped in Australia.

Example: Shipowner contracts with exporter

A similar scenario as above applies, except it is the shipowner who contracts with the Australian exporter. In addition, the bill of lading includes a clause specifying that the cargo is to be discharged in Chennai by 30 April and stipulating that demurrage or dispatch money may apply at the rate of \$1,000 per day. The cargo is discharged in Chennai on 2 May, so incurring \$2,000 demurrage.

In this case, the amount deemed to be received by the shipowner is \$52,000 – the agreed freight of \$50,000 plus \$2,000 added to the freight cost for late discharge of the cargo.

As a result, the taxable income of the shipowner is 5% of the \$52,000 (\$2,600).

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Effect of tax treaties

How tax treaties may impact the Australian tax liability of foreign ship operators.

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Tax treaties can affect Australian tax requirements. A tax treaty is also referred to as a double tax agreement (DTA).

If a tax treaty or a DTA exists between a foreign-based ship operator's country of residence and Australia, the amount received for carriage of passengers, livestock, mail or goods from an Australian port to another country may be exempt from tax in Australia.

Table 1, below, lists DTAs with Australia with a standard ships and aircraft article. Foreign-based ship operators resident of these countries in the table are not liable for tax on amounts received where passengers or goods are discharged outside of Australia.

Table 2, below, lists DTAs with Australia with a non-standard ships and aircraft article. Foreign-based ship operators resident of these countries should refer to the table to determine whether the freight can be exempt.

See also:

- [Taxation Ruling TR 2014/2](#) clarifies the circumstances when freight may be exempt from tax.

Table 1

Part A – DTAs with a standard ships and aircraft article and its equivalent		
Argentine agreement	Hungarian agreement	Polish agreement
Austrian agreement	Iceland agreement	Russian agreement
Belgian agreement	Indian agreement	Singaporean agreement
Canadian convention	Indonesian agreement	Slovak agreement
Chilean convention	Irish agreement	South African agreement
Chinese agreement	Japanese convention	Spanish agreement
Czech agreement	Malaysian agreement	Swedish agreement
Danish agreement	Mexican agreement	Swiss agreement
Fijian agreement	Netherlands agreement	Taipei agreement
Finnish agreement	New Zealand convention	Turkish convention
French convention	Norwegian convention	United Kingdom convention
German agreement	Papua New Guinea agreement	Vietnamese agreement

Table 2

Part B – DTAs with a non-standard ships and aircraft article	
Italian convention	If the shipowner or charterer is deemed to be a resident solely of Italy, it must also have its effective management in Italy to claim an exemption from tax in Australia for amounts received as payment for carriage of passengers, livestock, mail or goods from an Australian port.

	<p>If the effective management of the shipping enterprise is outside Italy or Australia, then there is a need to consider the application of the convention's business profits article for determining if the freight may be exempt from Australian tax.</p>
Kiribati agreement	<p>Australia has the right to tax freight received for carriage of passengers or goods that are discharged at a place outside Australia. However, the amount of tax which Australia can charge is reduced to half of the amount of tax which would otherwise be payable.</p>
Korean convention	<p>Freight received for the carriage of passengers or goods that are discharged at a place outside Australia are not liable for tax in Australia.</p> <p>However, freight received for the carriage of passengers or goods that are shipped and discharged in Australia will fall for consideration under the convention's business profits article.</p>
Maltese agreement	<p>Australia has the right to tax freight received for the carriage of passengers or goods that are discharged at a place outside Australia unless the company proves that:</p> <ul style="list-style-type: none"> • not more than 25% of its capital is owned, directly or indirectly, by persons who are not residents of Malta; or • the amounts are not relieved from Malta tax under the provisions of Malta's Merchant Shipping Act 1973, or under any identical or similar provision.
Philippine agreement	<p>Australia has the right to tax freight received for carriage of passengers or goods that are discharged at a place outside Australia. However, the amount of tax which Australia can charge on such amounts is limited to the lesser of:</p> <ul style="list-style-type: none"> • 1.5% of the gross revenues derived from sources in Australia; and

	<ul style="list-style-type: none"> the lowest rate of Philippines tax that may be imposed on profits of the same kind derived under similar circumstances by a resident of a third state. <p>However, freight received for the carriage of passengers or goods that are shipped and discharged in Australia will fall for consideration under the agreement's business profits article.</p>
Romanian agreement	<p>If the shipowner or charterer is deemed to be a resident solely of Romania and has its effective management in Romania, then Australia does not have the right to tax the freight received in respect of the carriage of passengers or goods that are discharged at a place outside Australia.</p> <p>If the effective management of the shipping enterprise is outside Romania or Australia, then there is a need to consider the application of the agreement's business profits article for determining if the freight may be exempt from Australian tax.</p>
Sri Lankan agreement	<p>Australia has the right to tax freight received for carriage of passengers or goods that are shipped in Australia but discharged at a place outside Australia. However, the amount of tax which Australia can charge on such amounts is limited to the lesser of:</p> <ul style="list-style-type: none"> half the amount which would otherwise be payable; and the lowest amount, if any, of Sri Lanka tax that may be imposed on profits of the same kind derived under similar circumstances by a resident of a third State. (Article 8(2) of the Sri Lankan agreement).
Thai agreement	<p>Australia has the right to tax freight received for carriage of passengers or goods that are discharged at a place outside Australia.</p> <p>However, the amount of tax which Australia can charge is reduced to half of the amount of tax which would otherwise be payable.</p>

<p>United States convention</p>	<p>Freight received for the carriage of passengers or goods that are discharged at a place outside Australia are not liable for tax in Australia.</p> <p>However, the convention article only gives the United States the exclusive right to tax income from hire fees paid or payable under a time charterparty in respect of a ship that is operated in international traffic by the lessee, if the lessor either:</p> <ul style="list-style-type: none"> • operates ships otherwise than solely between places in Australia; or • regularly leases ships under a time charterparty. <p>Whether Australia has a right to tax income from hire fees paid or payable under a time charterparty not dealt with above will fall for consideration under the convention's business profits article.</p> <p>Under this convention, Australia has the right to tax freight received for the carriage of passengers or goods that are 'taken on board ... for discharge' in Australia.</p> <p>However, whether Australia has a right to tax income from the lease of a ship (leasing profits) used to carry passengers, or goods that are taken on board and discharged in Australia, will be considered under the convention's business profits article.</p>
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DTAs and Coasting Trade

A DTA **does not** exempt a foreign-based ship operator from paying tax on income derived by that vessel engaging in **coasting trade** in Australian waters.

Coasting trade, also referred to as 'coastal trade', is the carriage of cargo that is both shipped and discharged at Australian ports, or passengers who both embark and disembark at Australian ports.

Coasting trade includes both intra-state and inter-state voyages, and voyages undertaken by licensed and unlicensed ships, whether with or without a voyage permit.

Freight beneficiaries are liable regardless of whether one or more charter party clauses indicate otherwise.

Example: Application of a DTA

A container carrier, 'The Eagle' is owned and operated by 'Hallgrimsson Ltd', a company based in Denmark. A current tax treaty exists between Australia and Denmark and it has a standard ships and aircraft article – refer [Table 1](#). Hallgrimsson Ltd contracts to carry general cargo from both Melbourne and Brisbane to Japan. The company also enters contracts to ship and discharge goods between Melbourne, Port Botany, Newcastle and Brisbane, prior to departing Australian waters for Japan.

Applying the current tax treaty between Australia and Denmark, Hallgrimsson Ltd is exempt from paying Australian tax on any payment received for the carriage of goods shipped in Melbourne and Brisbane and then discharged in Japan.

However, under the tax treaty, the company is still subject to Australian tax for any payment received for the carriage of goods shipped and discharged between Melbourne, Port Botany, Newcastle and Brisbane. The voyages Melbourne-Botany Bay-Newcastle-Brisbane are coasting trade and any payment received is deemed to be assessable income. As a result, an Overseas ships – voyage return form must be lodged and 5% of this amount returned as taxable income.

See also:

- International tax agreements

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Exemptions under other Australian legislation

Exemptions under other Australian legislation do not directly impact Australian tax requirements.

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Exemptions under other Australian legislation do not affect tax requirements.

Visiting ships may be subject to, or specifically exempt from, the requirements of a range of Australian legislation.

However, an exemption granted under a particular body of Australian legislation **only** applies to that body of legislation, not to Australian tax legislation.

Example: Non-tax exemptions

'Alacarte Ltd', a company based in the United Kingdom, owns and operates an ocean cruise liner, the 'Savoy at Sea'.

A current tax treaty exists between Australia and the UK.

Under this tax treaty, Alacarte Ltd is exempt from paying Australian tax on fares received for the carriage of passengers who embark in Australia and disembark in another country.

The 'Savoy at Sea' visits Australia frequently, during cruises to the Asia-Pacific region, with fare-paying Australian passengers embarking in Melbourne and Sydney.

However, some passengers embark in Melbourne and disembark in Sydney without travelling overseas.

Under the same tax treaty, Alacarte Ltd is still subject to Australian tax for any fares received for the carriage of passengers who embark in Melbourne and then disembark in Sydney without travelling overseas.

The voyage between Melbourne and Sydney is coastal trade and any payment received is deemed to be assessable. As a result, 5% of this amount must be returned as taxable income.

As a cruise liner, operating between Melbourne and Sydney, the ship is exempt from the coastal trade requirements of the

Navigation Act 1912. This means that the 'Savoy at Sea' does not need a permit to trade between these Australian ports.

However, this coastal trade exemption, under the *Navigation Act 1912*, applies only to the need to obtain a permit. It does not provide Alacarte Ltd with an exemption from the provisions of section 129 of the Income Tax Assessment Act 1936 and it must therefore lodge an Overseas ships – voyage return form.

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Our commitment to you

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

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