

INCOME-TAX ACT, 2025

G: Special provisions relating to income of shipping companies

Section 234 - Avoidance of tax and exclusion from tonnage tax scheme.

(1) Subject to the provisions of this Part, the tonnage tax scheme shall not apply where a tonnage tax company is a party to any transaction or arrangement which amounts to an abuse of the tonnage tax scheme.

(2) For the purposes of sub-section (1), a transaction or arrangement shall be considered an abuse, if the entering into or the application of such transaction or arrangement results, or would but for this section have resulted, in a tax advantage being obtained for—

(a) a person other than a tonnage tax company; or

(b) a tonnage tax company in respect of its non-tonnage tax activities.

(3) For the purposes of this section, “tax advantage” includes—

(a) the determination of—

(i) the allowance for any expense or interest; or

(ii) any cost or expense allocated or apportioned,

which has the effect of reducing the income or increasing the loss, from activities other than tonnage tax activities chargeable to tax, computed on the basis of entries made in the books of account in respect of the tax year in which the transaction was entered into; or

(b) a transaction or arrangement which produces to the tonnage tax company more than ordinary profits which might be expected to arise from tonnage tax activities.

(4) Where a tonnage tax company is a party to any transaction or arrangement referred to in sub-section (1), the Assessing Officer shall, by an order in writing, exclude such company from the tonnage tax scheme.

(5) The Assessing Officer shall pass an order under sub-section (4), after--

(a) giving an opportunity to the company by serving a notice calling upon such company to show cause, on a date and time to be specified in the notice, why it should not be excluded from the tonnage tax scheme; and

(b) obtaining prior approval of the Principal Chief Commissioner or Chief Commissioner.

(6) The provisions of this section shall not apply where the company satisfies the Assessing Officer that the transaction or arrangement was a bona fide commercial transaction and had not been entered into for the purpose of obtaining tax advantage under this Part.

(7) Where an order has been passed under sub-section (4) by the Assessing Officer excluding the tonnage tax company from the tonnage tax scheme, the option for tonnage tax scheme shall cease to be in force from the first day of the tax year in which the transaction or arrangement was entered into.