



COMPANY TAX OBLIGATIONS AND ADVICE

Sample Report – For Illustrative Purposes Only

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Scope of advice

Your company has requested advice on its tax obligations concerning international crew employed aboard a Maltese-flagged vessel. This report outlines the tax considerations that may apply to your company with respect to employing crew, particularly Australian tax residents, and offers recommendations to manage employer risk and compliance efficiently.

Relevant facts

- Your company operates a Maltese-flagged motor yacht, staffed by multinational crew members.
- Crew are typically employed under fixed-term or rolling contracts, working offshore and rotating between various international ports.
- Crew members are paid through either your company directly or a third-party management/payroll agent.
- Some crew members are Australian tax residents, but are working primarily outside of Australia.
- The vessel does not conduct regular commercial operations in Australian waters.
- The company is not incorporated in Australia, and its management functions are based offshore.

Issues

- Whether your company must withhold income tax for Australian-resident crew members.

- Whether superannuation obligations arise for any of the Australian staff.
- What role (if any) the Maltese flag plays in determining tax responsibilities.
- How to mitigate the risk of employer liability or creating a taxable presence in Australia.

Crew tax obligations – employer perspective

Australian-resident crew

Australian citizens working abroad are taxed on their worldwide income if they remain Australian tax residents. While you as the employer may not be domiciled in Australia, these crew members remain personally responsible for filing Australian tax returns and declaring their income. Your company is not obliged to withhold Australian PAYG unless you are an Australian resident entity or conducting business in Australia.

Superannuation

Superannuation obligations only apply if the employer is Australian-based or if the work is performed in Australia. As the vessel is Maltese-flagged and operating offshore, and assuming your company is not registered in Australia, no superannuation obligations arise, even for Australian crew.

Fringe Benefits Tax (FBT)

FBT obligations do not apply unless your company has an Australian business registration and provides benefits (e.g. accommodation or flights) linked to Australian-based duties. As work occurs exclusively offshore, this is not likely to be triggered.

International crew

Non-Australian crew are unlikely to have any Australian tax exposure unless they render services in Australia or are tax residents of Australia. Crew who are not Australian residents are not assessable under Australian law unless their work is linked to Australian-sourced income.

Malta-flagged vessel considerations

Malta's registry does not automatically create tax obligations in Australia. Flag state is primarily relevant for maritime compliance, but does not dictate tax sourcing rules in Australia or elsewhere. The use of a Maltese flag suggests operations are structured internationally, which supports the argument that duties are not Australian-sourced.

Recommended actions

- **Confirm crew residency:** Obtain clear residency declarations from all crew to distinguish between Australian-resident and non-resident obligations.
- **Issue employment contracts offshore:** Ensure that employment contracts specify a non-Australian jurisdiction and offshore point of control.
- **Consider a payroll intermediary:** Use a third-party payroll provider to manage tax and compliance across different crew domiciles.
- **Maintain vessel logs and port records:** These provide evidence of offshore activity and help protect against assertions that work is Australian-sourced.
- **Avoid Australian business registration:** If your company is not conducting commercial activity in Australia, it should avoid establishing any formal presence that could lead to tax obligations.
- **Support Australian-resident crew:** While you are not required to withhold tax or contribute to super, you may wish to guide Australian crew to seek advice on their own tax and residency obligations.

Additional considerations

It is important to be aware that if your company expands activity into Australia or begins chartering operations in Australian ports, a different tax position may apply. The ATO may assert sourcing rules based on port entries, charter schedules, or crew movements, so it is important to maintain clear operational separation from Australian territory. You are not legally required to manage your crew's personal tax affairs, but providing documentation and pay summaries can assist crew in fulfilling their individual obligations and reduce risk of scrutiny.

This sample report is for illustrative purposes only and should not be relied upon as a substitute for personalised tax advice.
