

Date: April 1, 2016

TO WHOMSOEVER IT MAY CONCERN

This is to confirm and certify that, Maersk Line A/S ("**the Company**") is a Company incorporated in Denmark under the provisions of Danish Companies Act.

We further confirm and certify that the Company is a Tax Resident in Denmark and under Article 9 of the Agreement for Avoidance of Double Taxation i.e. DTAA between India and Denmark; profits derived by the Company from the operations of ships in International Traffic are exempt from tax in India.

In view of the above and the clarification issued by the CBDT vide Circular no 723 dated 19th September 1995 the provisions of Section 194C and Section 195 of the Income Tax Act, 1961, deduction of tax at source shall not be applicable in respect of freight charges, terminal handling charges, inland haulage charges or any amount of similar nature payable to the Company for FY 2016-2017 (Relevant for Assessment Year 2017-2018).

Sincerely,

For **Maersk Line India Private Limited**

(As Agents of Maersk Line A/S)



Authorized Signatory





Income Tax Department

Government of India

SECTION 172 • SHIPPING BUSINESS OF NON-RESIDENTS

913. Tax deduction at source from payment made to foreign shipping companies

1. Representations have been received regarding the scope of sections 172, 194C and 195 of the Income-tax Act, 1961, in connection with tax deduction at source from payments made to the foreign shipping companies or their agents.
2. Section 172 deals with shipping business of non-residents. Section 172(1) provides the mode of the levy and recovery of tax in the case of any ship, belonging to or chartered by a non-resident, which carries passengers, livestock, mail or goods shipped at a port in India. An analysis of the provisions of section 172 would show that these provisions have to be applied to every journey a ship, belonging to or chartered by a non-resident, undertakes from any port in India. Section 172 is a self-contained code for the levy and recovery of the tax, ship-wise, and journey wise, and requires the filing of the return within a maximum time of thirty days from the date of departure of the ship.
3. The provisions of section 172 are to apply, notwithstanding anything contained in other provisions of the Act. Therefore, in such cases, the provisions of sections 194C and 195 relating to tax deduction at source are not applicable. The recovery of tax is to be regulated, for a voyage undertaken from any port in India by a ship under the provisions of section 172.
4. Section 194C deals with work contracts including carriage of goods and passengers by any mode of transport other than railways. This section applies to payments made by a person referred to in clauses (a) to (j) of sub-section (1) to any "resident" (termed as contractor). It is clear from the section that the area of operation of TDS is confined to payments made to any "resident". On the other hand, section 172 operates in the area of computation of profits from shipping business of non-residents. Thus, there is no overlapping in the areas of operation of these sections.
5. There would, however, be cases where payments are made to shipping agents of non-resident ship-owners or charterers for carriage of passengers etc., shipped at a port in India. *Since, the agent acts on behalf of the non-resident ship-owner or charterer, he steps into the shoes of the principal. Accordingly, provisions of section 172 shall apply and those of sections 194C and 195 will not apply.*

Circular: No. 723, dated 19-9-1995.