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By PwC Deutschland | 13 April 2011

Sailors entitled indefinitely to tax-free subsistence allowance

The Supreme Tax Court has held that a sailor is not restricted to the first three months of a cruise in his entitlement to a tax-free daily allowance for subsistence whilst travelling.

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Under the rules for travelling expenses, employees on business trips are entitled to tax-free daily allowances for subsistence whilst away from home or office. This entitlement expires after an absence of three months from an employee's regular place of work on an assignment to another fixed location. The Supreme Tax Court has previously held that that another fixed location can be aboard ship; thus a sailor loses his entitlement once his ship remains away from her home port for longer than three months.

The court has now reconsidered its position. In a case brought by an engineer officer on an ocean-going trawler who claimed subsistence allowance for 184 days at sea in a year in which the vessel did not once dock at her home port, it held that a fixed location is to be taken as fixed in a geographical sense of the term. It cannot therefore apply to a ship or other vehicle on the move. Accordingly, the three-month restriction is irrelevant to sailors.

Supreme Tax Court judgment VI R 66/10 of February 24, 2011 published on April 13

Keywords

business trips, subsistence allowance, travelling expenses