

Ab/MOL/4063

17th April, 2013

Mr Sigbjørn Johnsen
Minister of Finance
Ministry of Finance,
Akersgata 40,
Postbox 8008 Dep,
0030 Oslo, Norway

OPEN LETTER

post@fin.dep.no

Dear Minister Johnsen,

I refer to your statements in recent days that Ryanair cabin crew, who work in Ireland on “Irish territory” (the definition of Irish registered aircraft), are paid in Ireland and who are required under Irish law to pay their taxes in Ireland should instead pay their taxes in Norway, even though they do not work in Norway.

With respect, I draw your attention to S.127 of the Irish Finance Act 2011 (attached), which specifically deals with the taxation obligations of Ryanair’s employees as follows:

1. *Income arising to any individual, whether resident in the State or not, from any employment exercised aboard an aircraft-*
 - (a) *that is operated in international traffic, and*
 - (b) *where the aircraft is so operated by an enterprise that has its place of effective management in the State,*

shall be chargeable to tax under Schedule E.
2. *For the purposes of an arrangement to which this section and section 826 applies, “international traffic” in relation to an aircraft, does not include an aircraft operated solely between places in another state.”*

As an Irish airline, operating Irish registered aircraft, managed and controlled from Ireland, both Ryanair and its employees are obliged to comply with Irish tax law, which requires both Ryanair and these employees to pay their income taxes here in Ireland.

This legislation is recognised by the Norwegian Government in the Norway-Ireland Double Taxation Treaty (Article 15(4) – attached) which states:

“Remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State (i.e. Ireland in the case of Ryanair) may be taxed in that State”.

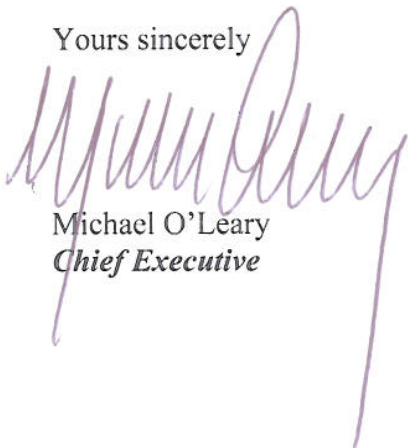
Interestingly this tax treaty also recognises that residents of Norway operating international flights for SAS shall be taxable only in Norway. Perhaps these rules should now be extended to Norwegian pilots and cabin crew as well?

Until such time as this law is revoked or amended, Ryanair and its employees, must continue to comply with our legal and tax obligations here in Ireland, and we accordingly we will continue to pay our taxes (both employee and employer taxes) here in Ireland. It is deeply regrettable that Ryanair's investment in Norway and our growing traffic and tourism in Norway has been subjected to false claims and inaccurate criticisms by Norwegian trade unions, and inaccurate claims by Government Ministers.

We believe that European Governments introduced these rules many years ago specifically to address the taxation of mobile transport workers and to ensure for example that employees who lived and worked on cruise ships, fishing ships (or oil platforms in international waters) or who worked on SAS international flights were liable to pay their taxes in the country where the employer was operated and managed. This has significantly benefitted the Norwegian Exchequer through tax receipts from people who live or work outside of Norway on SAS flights, Norwegian fishing vessels, cruise ships and oil platforms. They should also apply to people working on Norwegian registered and managed aircraft regardless of whether they are based in Bangkok or Spain. Should Norway wish to amend these rules, then this is a matter that should be addressed with other European Governments, but you cannot apply one set of rules for SAS, Norwegian cruise ships, fishing boats or oil platforms and a different set of rules for an Irish airline, operating Irish aircraft (Irish territory) on international flights, who are legally obliged to pay their taxes here in Ireland, as recognised under the Norway-Ireland Double Taxation Treaty.

Should you require any further factual information in connection with these false claims, please don't hesitate to contact me.

Yours sincerely

A handwritten signature in purple ink, appearing to read 'Michael O'Leary', with a long vertical line extending downwards from the end of the signature.

Michael O'Leary
Chief Executive

Convention between
Ireland
and
the Kingdom of Norway

for the Avoidance of Double Taxation
and
the Prevention of Fiscal Evasion
with respect to taxes on income and on capital.



The Government of Ireland and the Government of the Kingdom of Norway, desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on income and on capital, have agreed as follows:


Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 17, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - a) the recipient is not present in that other State for a period or periods exceeding in the aggregate 183 days in any period of twelve months commencing or ending in the fiscal year concerned; and
 - b) the remuneration is paid by, or on behalf of, an employer who is a resident of the State of which the recipient is a resident; and
 - c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other State.
3. Paragraph 2 of this Article shall not apply to remuneration derived by a resident of a Contracting State, in this paragraph called "the employee", and paid by or on behalf of an employer who is resident of that State in respect of an employment exercised in the other Contracting State where:

- a) the employee renders services in the course of that employment to a person other than the employer who, directly or indirectly, supervises, directs or controls the manner in which those services are performed; and
- b) the employer does not have the rights to or the responsibility for the work in respect of which the services are performed.

 4. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State. 

 5. Where a resident of Norway derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in Norway. 