Draft Act No **L 182** Folketinget (The Danish Parliament) 2023-24

Introduced on 30 April 2024 by the Minister for Taxation (Jeppe Bruus)

Draft

Act on the taxation of CO_2e emissions from trading sectors (Emissions Tax Act)[1)]

Part 1

Scope of the tax and tax amount

§ 1. *(1)* A tax shall be paid to the State Treasury in accordance with the provisions of this Act on the emission of greenhouse gases from activities in Denmark, including the territorial sea and Denmark's exclusive economic zone covered by Annex 1 to the Act, for which allowances must be surrendered under the trading scheme, without prejudice to paragraphs 2–4.

(2) Only flights covered by paragraph 1 shall be taxed if they begin and end in Denmark, including the territorial sea and Denmark's exclusive economic zone, and are covered by Annex 1 to the Act (domestic aviation). Tax shall only be paid for ferry routes covered by paragraph 1 if they begin and end in a Danish port or platform and are covered by Annex 1 to the Act (domestic ferry services).

(3) For activities where the Emissions Trading Directive provides for a gradual phasing-in of the surrender of allowances, the tax shall be paid on the quantity of allowances corresponding to actual emissions during that period, irrespective of the phasing-in of the surrender obligation.

(4) Emissions from sustainable biogas which are exempt from the obligation to surrender allowances, are subject to a tax on the emissions, irrespective of the allowance exemption.

§ 2. *(1)* The tax per tonne of CO_2 equivalent emitted is DKK 71.2 in 2025, DKK 128.1 in 2026, DKK 185.0 in 2027, DKK 241.9 in 2028, DKK 298.9 in 2029 and DKK 355.8 (2015 levels) from 1 January 2030 onwards, without prejudice to paragraph 3.

(2) The rates referred to in paragraph 1 shall be adjusted in accordance with Section 32a of the Act on an energy tax on mineral oil products, etc.

(3) The tax per tonne of CO_2 equivalent emitted from mineralogical processes, metallurgical processes, chemical reduction and electrolysis, which are covered by Annex 2 to the Act, is DKK 94.9 in 2025, DKK 99.6 in 2026, DKK 104.4 in 2027, DKK 109.1 in 2028, DKK 113.9 in 2029 and DKK 118.6 (2015 levels) from 1 January 2030 onwards. Emissions from mineralogical and metallurgical processes must occur as a result of heating in installations, and the materials involved in those processes must, through heating in the installations, alter the chemical or internal physical structure. The emissions also include non-energy related emissions from the processes mentioned in the first sentence.

(4) The rates referred to in paragraph 3 shall be adjusted in accordance with Section 32a of the Act on an energy tax on mineral oil products, etc.

(5) Companies paying the tax at the rate referred to in paragraph 3 shall report to the Customs and Tax Administration the difference between the reduced tax under paragraph 3 and the tax as it would have been if it had to be calculated at the higher tax rates referred to in paragraph 1, if the difference exceeds EUR 100 000 in a calendar year. The conversion from Danish kroner to euro must be made at the rate applicable on the first working day of October in the year covered by the report, as published in the Official Journal of the European Union. The calculation of the tax reduction according to the first sentence must be made for each legal entity.

(6) The Danish Minister of Taxation shall lay down detailed rules on the reporting and publication of information reported according to paragraph 5, including information on the company's name, type of company, CVR (Central Business Register) number, amount and date of the allocation. The Minister for Taxation shall also lay down detailed rules stipulating that companies may not apply the tax rate referred to in paragraph 3 if they do not meet the conditions for receiving State aid at all times.

[1] A draft of this Act has been notified in accordance with Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (codification).

Part 2

Definitions,

§ 3. For the purposes of this Act:

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Ministry of Taxation. File No 2022-14171

1) CO_2 equivalent: The quantity of a greenhouse gas corresponding to the global warming potential of one tonne of carbon dioxide (CO_2).
2) Operator: A natural or legal person who operates or controls a stationary installation or to whom decisive economic power over the technical functioning of the installation has been delegated.
3) Greenhouse gases: Carbon dioxide (CO_2), methane (CH_4), laughing gas (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF_6) and other gaseous components of the atmosphere, both natural and anthropogenic, which capture and re-emit infrared radiation.
4) Allowance: Proof of the right to emit one tonne of CO_2 equivalent. The right is regulated in more detail in the Emissions Trading Directive, which has been transposed by the Act on CO_2 allowances and other legal acts of the European Union established on the basis of the Emissions Trading Directive (the trading scheme).
5) Emissions Trading Directive: Directive of the European Parliament and of the Council establishing a system for greenhouse gas emission allowance trading within the Union.
6) Trading scheme: Regulation of the CO_2 Allowances Act in rules issued pursuant to the CO_2 Allowances Act and in EU acts on matters covered by the CO_2 Allowances Act.
7) Allowance surrender obligation: The obligation for operators, aircraft operators and maritime operators under the trading scheme to surrender each year by 30 September at the latest in the Union Registry a number of allowances equal to their verified emissions in the preceding calendar year.
8) Aircraft operator: An aircraft operator, commercial air transport operator or any other person covered by Union rules laying down requirements for greenhouse gas emission allowance trading in the field of aviation.
9) MR Regulation: Commission Implementing Regulation on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 601/2012.
10) MRV Regulation: Regulation of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC.
11) Operator: An operator, aircraft operator, maritime operator (shipping company), fuel operator (regulated entity) or anyone else subject to EU rules on requirements for greenhouse gas emission allowance trading.
12) Monitoring plan: The operator's or aircraft operator's greenhouse gas emissions monitoring plan approved by the competent authority in accordance with Article 11 of the MR Regulation, and the maritime operator's corresponding maritime monitoring plan referred to in Article 6(6) to (8) of the MRV Regulation.
13) Maritime operator: A shipping company or shipowner or any other organisation or person, such as a manager or bareboat charterer subject to the provisions of the trading scheme, because the person meets the definition of 'shipping company' within the meaning of Article 3(w) of the Emissions Trading Directive.
14) Emissions report: The operator's or aircraft operator's verified annual emissions report for the reporting period submitted to the competent authority in accordance with Article 68 of the MR Regulation and the companies' corresponding maritime report referred to in Article 11 of the MRV Regulation.
15) Emissions permit: Permit for an operator or fuel operator to emit greenhouse gases, cf. Section 4(1) of the CO_2 Allowances Act.

Part 3

Registered companies

Section 4. *(1)* A company must register with the Customs and Tax Administration if it carries out activities which require the operator to obtain a permit from the Danish Energy Agency to emit greenhouse gases under the trading scheme. Registration shall be made no later than within 14 days of receipt of the emissions permit. If, on 1 January 2025, the operator holds an emissions permit, the company must register with the Customs and Tax Administration by 14 January 2025 at the latest.

(2) A company must be registered with the Customs and Tax Administration if it operates domestic aviation in Denmark, cf. Section 1(3), which requires the aircraft operator to surrender allowances under the trading scheme. Registration shall be made no later than 14 days after approval of the monitoring plan by the Danish Energy Agency or a competent authority in another EU country if it is expected that the company will be subject to the allowance surrender obligation, cf. paragraph 4. If the company has surrendered allowances in 2024, it shall register no later than 14 January 2025.

(3) A company must be registered with the Customs and Tax Administration if it operates domestic ferry services in Denmark, which require the maritime operator to surrender allowances under the trading scheme. Registration shall be made within no later than 14 days of the approval of the monitoring plan for monitoring and reporting annual CO_2 emissions by the Danish Energy Agency or a competent authority in another EU country if it is expected that the company will be subject to the allowance surrender obligation, cf. paragraph 4. Companies which, from 2025, are subject to the obligation to surrender allowances under the Emissions Trading Directive as mar-

itime operators, shall, once the conditions set out in paragraph 4 are met, register with the Customs and Tax Administration no later than 14 January 2025.

(4) A company shall, except in exceptional circumstances, register in accordance with paragraphs 2 or 3 if, in the previous year, it was subject to the obligation to surrender allowances to the Danish Energy Agency or a competent authority in another EU country. A company which was not in possession of a monitoring plan in previous years or was required to surrender allowances must register with the Customs and Tax Administration at the time when it can be assumed that the company will surrender allowances to the Danish Energy Agency at the end of the year or with a competent authority in another EU country. From the time of registration or when it should have registered in accordance with the second sentence, the company is required to declare and settle the tax.

(5) The Customs and Tax Administration shall issue a certificate of registration pursuant to paragraphs 1–3.

Part 4

Tax period and calculation of taxable quantity

§ 5. *(1)* The tax period is the month.

(2) Registered companies must calculate the taxable greenhouse gas emissions on a provisional basis at the end of each tax period.

(3) The provisional quantity of taxable greenhouse gas emissions in the tax period shall be calculated on the basis of the measurement of energy consumption or greenhouse gas emissions calculated in accordance with Section 6 or greenhouse gas emissions in the preceding two calendar years (at most) calculated in accordance with Section 6, without prejudice to paragraph 4.

(4) Registered companies may take into account, in the provisional calculation of the taxable quantity, information which may have an impact on the calculation of emissions in the current calendar year, including the amendment of monitoring plans due to capacity extensions. Registered companies which have not previously submitted emissions reports to the Danish Energy Agency or a competent authority in another EU country under the trading scheme shall calculate the taxable emissions in the first calendar year on the basis of the expected emissions in each tax period.

(5) In the absence of an approved monitoring plan under the MRV Regulation before 6 June 2025, the provisional calculations referred to in paragraph 1 for 2025 may be made on the basis of the submitted monitoring plan and the final calculation.

(6) The Minister for Taxation may lay down rules on documentation for the calculation of the taxable quantity of greenhouse gas emissions in accordance with paragraphs 1–4.

§ 6. *(1)* After the end of the calendar year, registered companies must produce a final calculation of the quantity of taxable emissions. The final taxable quantity shall be calculated as greenhouse gas emissions, cf. Section 1, on the basis of the emissions report approved by the competent authority under the MR and MRV Regulations, without prejudice to paragraphs 2, 3 and 5.

(2) Registered companies under Section 4 shall calculate the amount of emissions from domestic aviation.

(3) Registered companies under Section 4 shall calculate the amount of emissions from domestic ferry services.

(4) The Minister for Taxation may lay down rules on documentation for the calculation of the taxable quantity of greenhouse gas emissions, which must be declared in accordance with paragraphs 1-3.

(5) Registered companies under Section 4 shall calculate the amount of emissions related to mineralogical processes, metallurgical processes, chemical reductions and electrolysis covered by Section 2(3). A proportionate part of the tax can be attributed to the first sentence, where the same installation supplies both uses covered by the first sentence and other uses within the company, when such an allocation can be calculated. Section 11(5)(4) of the Act on an energy tax on mineral oil products, etc., Section 11(5)(4) of the Act on a tax on natural gas and town gas, etc. and Section 8(4)(4) of the Act on a tax on coal, lignite and coke, etc. shall apply mutatis mutandis to the calculation of the proportionate allocation.

(6) The Minister for Taxation may lay down rules on documentation for the calculation of the taxable quantity of greenhouse gas emissions to be declared in accordance with paragraph 5.

Part 5

Accounting provisions

§ 7. *(1)* Registered companies shall keep accounts of greenhouse gas emissions in Denmark in accordance with the accounting rules laid down in Sections 5 and 6 and the rules of the trading scheme. Registered companies must, on request, provide the Customs and Tax Administration with evidence of this.

(2) Companies must keep accounting data, including invoices, copies of invoices, accompanying documents, statements, etc. for 10 years at the end of the financial year.

(3) The Customs and Tax Administration may lay down detailed rules on the accounting of companies in accordance with paragraph 1.

Part 6

Settlement of the tax

§ 8. *(1)* Registered companies shall, after the end of each tax period, cf. Section 5(1), declare and pay tax pursuant to Section 2 of the provisionally calculated taxable quantity of greenhouse gas emissions, cf. Section 5(2) to (4), to the Customs and Tax Administration. Declaration and payment shall be made no later than the 15th day of the first month following the end of the tax period. Where the last due date for the declaration is a bank holiday, the very next business day shall be deemed to be the last due date for the declaration.

(2) Declaration and payment under paragraph 1 shall be made in accordance with the rules laid down in the Tax Collection Act. After the end of the calendar year, the tax liability shall be definitively adjusted, cf. Section 9.

§ 9. *(1)* Registered companies shall, at the end of each calendar year, declare and pay any residual tax or declare excess tax in accordance with Section 2 to the Customs and Tax Administration. The residual tax shall consist of the amount by which the final tax liability in accordance with Section 6 may exceed the provisionally paid taxes, cf. Section 8. Excess tax shall consist of the amount by which the final tax liability in accordance with Section 6 may be less than the provisionally paid taxes, cf. Section 8.

(2) The declaration referred to in paragraph 1, first sentence, shall be submitted each year to the Customs and Tax Administration as part of the ordinary declaration for April with a deadline for declaration of 15 May. Where the last due date for the declaration is a bank holiday, the very next business day shall be deemed to be the last due date for the declaration.

(3) The tax shall become due on the first day of the month in which the declaration is to be submitted and shall be paid before the deadline for declaration expires. The declaration and payment shall also be made in accordance with the rules laid down in the Tax Collection Act.

Part 7

Control provisions

§ 10. *(1)* The Customs and Tax Administration shall at any time, upon providing appropriate identification and without a court order, have the right to inspect companies subject to registration, and to inspect the companies' inventories, professional books, other accounting data, emissions and verification report, other information covered by the trading scheme and correspondence, etc. In so far as the said information is recorded electronically, access by the Customs and Tax Administration shall also include electronic access to it.

(2) Owners of companies referred to in paragraph 1 and persons employed by them shall provide the Customs and Tax Administration with the necessary guidance and assistance in carrying out the inspections referred to in paragraph 1.

(3) At the request of the Customs and Tax Administration, the information referred to in paragraph 1 shall be provided or submitted to it.

(4) Public authorities shall, on request, disclose to the Customs and Tax Administration any information required for the registration and control of companies covered by the Act.

(5) Where necessary, the police shall provide assistance in carrying out inspections pursuant to paragraph 1.

(6) Registered companies which submit emissions reports, etc. concerning taxable emissions to a competent authority in another country must notify the Customs and Tax Administration if the competent authority makes a decision on greenhouse gas emissions or activity level. Notification must be made no later than one month after the decision is sent by the authority. If the decision is relevant to the tax liability, that relevance must be notified at the same time to the Customs and Tax Administration.

§ 11. (*1)* If the registered company has not declared tax in due time, cf. Sections 8 and 9, the Customs and Tax Administration may impose daily penalty payments.

(2) If a request for information to a company which is registered or subject to registration is not complied with pursuant to Section 10(3), the Customs and Tax Administration may order that the information be submitted within a specified time limit and impose daily penalty payments from when the time limit is exceeded until the order is complied with.

Part 8

Penal provisions

Section 12. *(1)* A fine is imposed on any entity which, intentionally or through gross negligence:

1) provides false or misleading information or conceals information for the purposes of the tax inspection;
2) infringes Section 2(5), Section 4(1–3), Section 7(1) or (2) or Section 10(2), (3) or (6); or
3) fails to make a declaration, cf. Section 8 or Section 9(1) or (2).

(2) Regulations issued pursuant to this Act may stipulate a fine for any entity which, intentionally or through gross negligence, infringes the provisions of the regulations.

(3) Any person who commits one of the infringements referred to in paragraph 1 with intent to evade tax owed to the public authorities shall be liable to a fine or imprisonment of up to one year and six months, unless a more severe penalty is required under Section 289 of the Criminal Code.

(4) Companies etc. (legal persons) may be rendered criminally liable in accordance with the provisions in Part 5 of the Danish Criminal Code.

Section 13. Sections 18 and 19 of the Tax Collection Act are applied correspondingly for infringements of that Act.

Part 9

Entry into force, etc.

Section 14. *(1)* The Act enters into force on 1 January 2025, without prejudice to paragraph 2.

(2) The Minister for Taxation shall determine the date of entry into force of Section 2(3) to (6) and Section 6(5) and (6).

Section 15. This Act does not apply to the Faroe Islands or Greenland.

Annex 1

Activities listed in Annex I to the Emissions Trading Directive

1. Installations or parts of installations used for research, development and testing of new products and processes are not covered by this Directive. Installations where during the preceding relevant five-year period, cf. Article 11(1), second subparagraph, emissions from the combustion of biomass that complies with the criteria set out pursuant to Article 14 contribute on average to more than 95 % of the total average greenhouse gas emissions are not covered by this Directive.
2. The threshold values given below generally refer to production capacities or outputs. Where several activities falling under the same category are carried out in the same installation, the capacities of such activities are added together.
3. When the total rated thermal input of an installation is calculated in order to decide upon its inclusion in the EU ETS, the rated thermal inputs of all technical units which are part of it, in which fuels are combusted within the installation, are added together. These units may include all types of boilers, burners, turbines, heaters, furnaces, incinerators, calciners, kilns, ovens, dryers, engines, fuel cells, chemical looping combustion units, flares, and thermal or catalytic post-combustion units. Units with a rated thermal input under 3 MW shall not be taken into account for the purposes of this calculation.
4. If a unit is used for an activity for which the threshold value is not expressed as total rated thermal input, the threshold value of this activity shall take precedence for the decision about inclusion in the EU ETS.
5. When the capacity threshold of any activity in this Annex is found to be exceeded in an installation, all units in which fuels are combusted, other than units for the incineration of hazardous or municipal waste, shall be included in the greenhouse gas emissions permit.
6. From 1 January 2012, all flights departing from or arriving at an aerodrome located in the territory of a Member State to which the Treaty applies shall be included.

Activity	Greenhouse gas
Combustion of fuels in installations with a total rated thermal input exceeding 20 MW (except in installations for the incineration of hazardous or municipal waste). From 1 January 2024, combustion of fuels in installations for the incineration of municipal waste with a total rated thermal input exceeding 20 MW in accordance with Article 14 and 15 of the Emissions Trading Directive.	Carbon dioxide (CO_2)
Refining of oil, where combustion units with a total rated thermal input exceeding 20 MW are operated.	Carbon dioxide (CO_2)
Production of coke.	Carbon dioxide (CO_2)
Metal ore (including sulphide ore) roasting or sintering, including pelletisation.	Carbon dioxide (CO_2)
Production of iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2.5 tonnes per hour.	Carbon dioxide (CO_2)
Production or processing of ferrous metals (including ferro-alloys) where com-	Carbon dioxide

bustion units with a total rated thermal input exceeding 20 MW are operated. Processing includes, inter alia, rolling mills, re-heaters, annealing furnaces, smitheries, foundries, coating and pickling.	(CO_2)
Production of primary aluminium or alumina.	Carbon dioxide (CO_2) and perfluorocarbons (PFC)
Production of secondary aluminium where combustion units with a total rated thermal input exceeding 20 MW are operated.	Carbon dioxide (CO_2)
Production or processing of non-ferrous metals, including the production of alloys, refining, casting, etc., using combustion units with a total rated thermal input (including fuels used as reducing agents) exceeding 20 MW.	Carbon dioxide (CO_2)
Production of cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or in other kilns with a production capacity exceeding 50 tonnes per day.	Carbon dioxide (CO_2)
Production of lime or calcination of dolomite or magnesite in rotary kilns or in other kilns with a production capacity exceeding 50 tonnes per day.	Carbon dioxide (CO_2)
Manufacture of glass including glass fibre with a melting capacity exceeding 20 tonnes per day.	Carbon dioxide (CO_2)
Manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware and porcelain, with a production capacity exceeding 75 tonnes per day.	Carbon dioxide (CO_2)
Manufacture of mineral wool insulation material using glass, rock or slag with a melting capacity exceeding 20 tonnes per day.	Carbon dioxide (CO_2)
Drying or calcination of gypsum or production of plaster boards and other gypsum products with a production capacity of calcined gypsum or dried secondary gypsum exceeding 20 tonnes per day.	Carbon dioxide (CO_2)
Production of pulp from timber or other fibrous materials.	Carbon dioxide (CO_2)
Production of paper or cardboard with a production capacity exceeding 20 tonnes per day.	Carbon dioxide (CO_2)
Production of carbon black involving the carbonisation of organic substances such as oils, tars, cracker and distillation residues with a production capacity exceeding 50 tonnes per day.	Carbon dioxide (CO_2)
Production of nitric acid.	Carbon dioxide

	(CO_2) and nitrous oxide (N_2O)
Production of adipic acid.	Carbon dioxide (CO_2) and nitrous oxide (N_2O)
Production of glyoxal and glyoxylic acid.	Carbon dioxide (CO_2) and nitrous oxide (N_2O)
Ammonia production.	Carbon dioxide (CO_2)
Production of bulk organic chemicals by cracking, reforming, partial or full oxidation or by similar processes, with a production capacity exceeding 100 tonnes per day.	Carbon dioxide (CO_2)
Production of hydrogen (H2) and synthesis gas with a production capacity exceeding 5 tonnes per day.	Carbon dioxide (CO_2)
Production of sodium carbonate (Na2CO3) and sodium hydrogen carbonate (NaHCO3).	Carbon dioxide (CO_2)
Capture of greenhouse gases from installations covered by this Directive for the purpose of transport and geological storage in a storage site permitted under Directive 2009/31/EC.	Carbon dioxide (CO_2)
Transport of greenhouse gases for geological storage in a storage site permitted under Directive 2009/31/EC, with the exclusion of those emissions covered by another activity under this Directive.	Carbon dioxide (CO_2)
Geological storage of greenhouse gases in a storage site permitted under Directive 2009/31/EC.	Carbon dioxide (CO_2)
Aviation Flights between aerodromes located in two different states listed in the implementing act adopted pursuant to Article 25a(3) and flights between Switzerland or the United Kingdom and the states listed in the implementing act adopted pursuant to Article 25a(3) and, for the purposes of Article 12(6) and (8) and Article 28c, all other flights between aerodromes located in two different third countries by aircraft operators fulfilling all of the following conditions: a) the aircraft operators hold an air operator certificate (AOC) issued by a Member State or are registered in a Member State, including in the outermost regions, dependencies and territories of that Member State;	Carbon dioxide

and b) they produce CO_2 emissions exceeding 10 000 tonnes per year from the use of aircraft with a maximum certified take-off mass exceeding 5 700 kg undertaking flights covered by this Annex, other than those aircraft departing and arriving in the same Member State, including outermost regions of the same Member State, from 1 January 2021; for the purposes of this point, emissions from the following types of flights shall not be taken into account: 3) State flights; c) humanitarian flights; d) medical flights; e) military flights; f) firefighting flights; g) flights preceding or following a humanitarian, medical or firefighting flight, provided that such flights were performed with the same aircraft and were required to carry out the related humanitarian, medical or firefighting activities or to reposition the aircraft after those activities for its next activity. Flights which depart from or arrive in an aerodrome located in the territory of a Member State to which the Treaty applies. This activity shall not include: a) flights performed exclusively for the transport, on official mission, of a reigning Monarch and his immediate family, Heads of State, Heads of Government and Government Ministers, of a country other than a Member State, where this is substantiated by an appropriate status indicator in the flight plan; b) military flights performed by military aircraft and customs and police flights; c) flights related to search and rescue, firefighting flights, humanitarian flights and emergency medical service flights authorised by the appropriate competent authority; d) any flights performed exclusively under visual flight rules as defined in Annex 2 to the Chicago Convention; e) flights terminating at the aerodrome from which the aircraft has taken off and during which no intermediate landing has been made; f) training flights performed exclusively for the purpose of obtaining a licence, or a certificate rating in the case of cockpit flight crew where this is substantiated by an appropriate remark in the flight plan provided that the flight does not serve for the transport of passengers and/or cargo or for the positioning or ferrying of the aircraft; g) flights performed exclusively for the purpose of scientific research or for the purpose of checking, testing or certifying aircraft or	(CO_2)

equipment whether airborne or ground-based; h) flights performed by aircraft with a certified maximum take-off mass of less than 5 700 kg; i) flights operated within the framework of public service obligations imposed pursuant to Regulation (EEC) No 2408/92 on routes in the outermost regions as defined in Article 299(2) of the Treaty or on routes where the capacity offered does not exceed 50 000 seats per year; j) flights which, if not for this point, would fall within this activity and are performed by a commercial air transport operator who either: – operates, for three consecutive four-month periods, fewer than 243 flights per period, or – operates flights with total annual emissions lower than 10 000 tonnes. Flights referred to in points (l) and (m) or performed exclusively for the transport, on official mission, of reigning Monarchs and their immediate family, Heads of State, Heads of Government and Government Ministers, of a Member State may not be excluded under this point; k) from 1 January 2013 to 31 December 2030 flights which, if not for this point, would fall under this activity, performed by a non-commercial aircraft operator whose total annual emissions are lower than 1 000 tonnes per year (including emissions from flights referred to in points (l) and (m)); l) flights from aerodromes located in Switzerland to aerodromes located in the EEA; m) flights from aerodromes located in the United Kingdom to aerodromes located in the EEA.	
Maritime transport Maritime transport activities covered by Regulation (EU) 2015/757, with the exception of the maritime transport activities covered by Article 2(1)(a) and, until 31 December 2026, Article 2(1)(b) of that Regulation.	Carbon dioxide (CO_2) From 1 January 2026, methane and nitrous oxide

Annex 2

Mineralogical processes, metallurgical processes, chemical reduction and electrolysis

Emissions from ‘mineralogical processes, metallurgical processes, chemical reduction and electrolysis’ mean non-energy related emissions from the following activities and emissions from energy products used for the following activities:
Directly in the manufacture of glass.
It is used directly in the manufacture of a) slag wool, rock wool and similar mineral wools, exfoliated vermiculite, expanded clays, foamed slag and similar expanded mineral materials, mixtures and articles of heat-insulating, sound-insulating or sound-absorbing mineral materials under heading 6806 of the European Union Combined Nomenclature; b) glass fibres, including glass wool, coming under heading 7019 of the EU Combined Nomenclature.
It is used directly for ceramic firing and for the prior drying of articles intended for this purpose and for the manufacture of aerated concrete.
It is used directly for heating, evaporating, drying or firing lime, chalk, chalkstone, marble and other calcium carbonate products, flint, gypsum, moler, bentonite and other clays, ferrous sulphate, copper sulphate and calcium oxide, and fertilisers with a dry matter content of at least 90 %, including at least 5 % phosphate after drying.
It is used directly in the production of hydrogen, argon, inert gases, nitrogen, nitrous oxide, ozone and oxygen, including the filling of these gases into pressurised containers, to the extent that the gases are used in the production of the company instead of purchased gases or the gases are mar-
It is used directly in the manufacture of cement.
It is used directly for the fusion of metals and glass and for keeping molten metals and glass hot, as well as directly for the manufacture of rolled or continuous cast slabs and billets, and for the further processing of slabs and billets by hot rolling into plates, wire, rods and similar articles of iron or steel, not further processed e.g. by sandblasting, etc., for metal heat treatment plants and for the ventilation of premises where molten metal and glass are processed. Only the process of heating glass to more than 300 degrees and keeping the glass hot, which has been heated above in the manufacturing process are considered as fusion of glass and keeping molten glass hot.

Comments on the draft Act

General comments

Table of contents

1. Introduction

The Government (Socialdemokratiet [Social Democrats], Venstre [Liberal Party] and Moderaterne [Moderates]) has set ambitious climate targets for Denmark with the government platform 'Ansvar for Danmark' (Responsibility for Denmark) launched in December 2022. The green transition of Danish industry is an important and necessary step towards achieving the Climate Act target of a 70 % greenhouse gas reduction in 2030 and the Government's objective of bringing climate neutrality forward to 2045 from the target originally set of achieving climate neutrality by 2050. A new tax per tonne of CO_2 emitted for the companies covered by the EU ETS will contribute to this transition.

The draft Act aims to implement the elements of the Agreement on Green Tax Reform for Industry, etc. of 24

June 2022 (hereinafter 'the Green Tax Reform Agreement, etc.') concerning the introduction of a high and more uniform CO_2 tax.

Implementation of the Green Tax Reform Agreement, etc. will result in an overall CO_2 reduction of 4.3 million tonnes in 2030. A higher and more uniform CO_2 tax is an important instrument for achieving this. It has therefore been agreed that the tax level in 2030 should be DKK 750 per tonne of CO_2 emitted for companies outside the EU ETS and DKK 375 per tonne of CO_2 emitted for companies inside the EU ETS. However, for mineralogical processes, etc., the tax will amount to DKK 125 per tonne of CO_2 emitted in 2030.

There is currently an energy tax on certain sectors and companies outside the EU ETS are subject to a CO_2 tax. Overall, a new emissions tax of DKK 375 per tonne of CO_2 equivalent (CO2e) is being proposed in this draft Act and an ancillary draft Act, but DKK 125 per tonne of CO_2e for trading mineralogical processes, etc., as well as a restructuring of the current energy and CO_2 tax so that the CO_2 tax is DKK 750 per tonne of CO_2, and an extension to domestic aviation, domestic ferries and fishermen.

This draft Act proposes a new tax of DKK 375 per tonne of CO2e emitted in 2030 for companies covered by the EU ETS. It is also proposed to introduce a tax of DKK 125 per tonne of CO_2e emitted in 2030 for trading mineralogical processes, etc. The tax level is calculated at 2022 levels, as in the agreement.

The tax is proposed as opposed to the CO_2 tax, where the tax is calculated directly or indirectly on the quantity of energy products or electricity at the time of release for consumption, to be an emissions tax where it is the greenhouse gas emissions themselves that are subject to a tax.

The tax base is proposed to be the greenhouse gas emissions for which allowances have to be surrendered under Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (hereinafter 'the Emissions Trading Directive'). Trading activities include greenhouse gas emissions from stationary installations and domestic aviation and ferry services. The obligation for maritime transport to surrender allowances will be gradually introduced in the period 2024–2026. It is proposed that the reported emissions should be taxed, i.e. the actual quantity of maritime emissions, irrespective of the specific phasing-in.

An ancillary draft Act proposes to restructure CO_2 and energy taxes for non-trading activities and for trading space heating, etc. The latter will be regulated both by this draft Act and by the CO_2 tax. It is therefore proposed to increase the CO_2 tax rate of DKK 750 per tonne of CO_2 emitted in 2030 for those companies not covered by the EU ETS. The tax will be phased in gradually from 2025, with full effect in 2030. It is also proposed to introduce a CO_2 tax on fishing, domestic ferries and domestic aviation.

It is therefore proposed to maintain the structure of the existing energy tax laws, but to reduce the tax rates in those laws to the minimum levels laid down in Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (Energy Taxation Directive).

2. Background to the draft Act

On 24 June 2022, the former government (Socialdemokratiet [Social Democrats]), Venstre (Liberal Party), Socialistisk Folkeparti (Green Left), Radikale Venstre (Social Liberal Party) and Det Konservative Folkeparti (Conservative People's Party) entered into the Green Tax Reform Agreement, etc. The agreement involves a total CO_2 reduction of 1.3 million tonnes in 2025, rising to 4.3 million tonnes in 2030.

The agreement provides for the introduction of a new and ambitious CO_2 tax, which will provide incentives for companies to become energy efficient, transform and create a predictable environment for the green transition.

At the same time, the agreement provides targeted support for the green transition of the companies most affected by the CO_2 tax so as to reduce the risk of emissions and jobs moving abroad.

The agreement requires companies outside the EU ETS to be subject to a tax of DKK 750 per tonne of CO_2 emitted in 2030 and that companies inside the EU ETS will be subject to a tax of DKK 375 per tonne of CO_2 emitted in 2030. Emissions from mineralogical processes, etc. in the trading sector shall be subject to a tax of DKK 125 per tonne of CO_2 emitted in 2030 for emissions associated with the use of energy products and non-energy related emissions from production processes.

It is proposed that a new tax be introduced at a rate of DKK 375 per tonne of CO_2e emitted for companies inside the EU Emissions Trading System (ETS I), covering certain emissions from activities in stationary installations, aviation and maritime transport. However, it is proposed that mineralogical processes, etc. be subject to a tax of DKK 125 per tonne of CO_2e emitted. The taxes are proposed to be phased in from 2025 to 2030.

As part of a high and more uniform CO_2 tax, it is proposed from 1 January 2025 that the current energy taxes on fossil fuels should be restructured into a total CO_2 tax up to DKK 750 per tonne of CO_2. The agreement provides for the restructuring of energy tax to CO_2 tax as much as possible and the overall tax level from these taxes will be DKK 750 per tonne of CO_2. It is proposed that the restructuring should apply to energy taxes on fuels used for process purposes in industry (process taxes), energy taxes on collective and individual heating (the

space heating tax) and petrol and diesel taxes (fuel taxes). The proposed restructuring increases the overall tax level for the process. The overall tax level following the proposed restructuring of the fuel taxes and the space heating tax will be similar to the level applicable to natural gas before the proposed restructuring.

Trading space heating, etc. is currently subject to both energy taxes, and the CO_2 tax and allowances. It is proposed that trading space heating, etc. be covered by the proposed emissions tax of DKK 375 per tonne of CO_2e and a CO_2 tax of DKK 375 per tonne of CO_2. With this draft, the overall tax level for trading space heating will be similar to that applicable to non-trading space heating, etc.

It is also proposed to expand the CO_2 tax to cover domestic aviation, domestic ferries and fishermen, as these emissions are also covered by the Climate Act reduction target. Domestic emissions are understood to be emissions produced by processes in Denmark, including the Danish part of the North Sea, but not the Faroe Islands and Greenland.

3. Introduction to the new Emissions Tax Act

3.1. Existing legislation

There is currently no Emissions Tax Act There is therefore no legislation taxing the release of CO_2 or CO_2 equivalents (CO_2e) into the atmosphere by combustion mainly of fossil fuels, such as coal, oil and gas.

CO_2 is not the only gas contributing to the greenhouse effect and the impact of greenhouse gas emissions on global warming varies greatly. In order to be able to compare these greenhouse gases, all of them are converted into CO_2e, also referred to as CO_2 equivalents, implying that emissions of greenhouse gases other than CO_2, such as methane and nitrous oxide, are converted into an equivalent emission of CO_2, i.e. CO_2 emissions with the same climate impact. The conversion shows how much emissions of another greenhouse gas will be in terms of CO_2.

CO_2e emissions from fossil fuels are taxed with a combination of CO_2 and energy taxes, which are taxes on the energy product used. In addition, parts of industry, major energy and combustion plants, as well as domestic aircraft are covered by the EU ETS.

In the current taxation system, the sum of energy and CO_2 taxes varies in DKK per tonne of CO_2e across use, sectors and fuels.

A number of areas are currently completely exempted from CO_2 and energy taxes. This includes electricity generation covered by the EU ETS, activities in the Danish North Sea and oil refineries, as well as domestic aviation, domestic ferries and fishermen.

3.1.1. CO_2 Tax Act

Fuels used as energy products for heating and motor fuel are currently covered by the Act on an energy tax on mineral oil products, etc. (hereinafter 'the Mineral Oil Tax Act'), the Act on a tax on hard coal, lignite and coke (hereinafter 'the Coal Tax Act'), the Act on a tax on natural gas and town gas, etc. (hereinafter 'the Gas Tax Act') and the Act on a carbon dioxide tax on certain energy products (hereinafter 'the CO_2 Tax Act'). These acts, together with the Act on a tax on electricity (hereinafter 'the Electricity Tax Act'), implement the Energy Taxation Directive.

The tax rate in the energy tax acts (Mineral Oil Tax Act, Coal Tax Act and Gas Tax Act) for fuels used for heating purposes is in principle balanced around the energy content of the fuel (GJ). The tax rate in the CO_2 Tax Act is balanced around CO_2 emissions when using the fuel. The CO_2 Tax Act therefore constitutes a tax on the energy products and not a tax on the actual emissions from the burning of those products. The tax rates are indicated in trading units such as kilograms and litres.

The CO_2 tax includes CO_2 emissions from energy products covered by the Mineral Oil Tax Act, Coal Tax Act and Gas Tax Act. According to Section 1(1) of the CO_2 Tax Act, bio-oils, etc. and non-synthetic methanol, cf. No 1, and biogas for heating, cf. No 3, are not subject to the tax. Under Section 2(3), the share of biofuels in blends used as motor fuel is not subject to tax, with the exception of biogas used as motor fuel in stationary piston-engine installations with a thermal input of more than 1 000 kW, cf. Section 1(2) of the CO_2 Tax Act. According to Section 7(3) of the CO_2 Tax Act, biofuels in the form of liquid or gaseous fuels from biomass used as motor fuel, are exempt from tax, however, without prejudice to Section 1(2).

Other energy products based on biomass which are taxable under the energy tax acts and which are used as fuel are not exempted from the CO_2 tax. However, bio-waste is covered by Section 7a(3) of the Coal Tax Act and waste with a weight content of non-biodegradable waste of less than 1 % is exempted under Section 7a.

The CO_2 tax is paid by registered companies to the Tax Administration. The registration obligation is stipulated by the Mineral Oil Tax Act, Coal Tax Act and Gas Tax Act. Registered companies include producers and suppliers of energy products as well as companies with a higher consumption of energy products that wish to be registered.

In addition, companies consuming biogas used as motor fuel in stationary piston engine installations with a thermal input of more than 1 000 kW shall be registered according to the CO_2 Tax Act.

According to Section 9a(1) of the CO_2 Tax Act, a repayment of tax is granted for heating and certain taxable goods used in the production units of VAT-registered companies with a CO_2 emissions permit, cf. the Act on

CO_2 allowances (hereinafter 'the CO_2 Allowances Act'), for activities covered by Sections 8–10 of Act No 1095 of 28 November 2012 on CO_2 allowances, cf. the Emissions Trading Directive. The repayment option does not cover space heating, etc., cf. Section 9a(2).

The exemption from the CO_2 tax for the companies' trading fuel consumption in the form of a repayment means that trading fuel consumption and fuel consumption by companies outside the trading scheme are treated in the same way. CO_2 emissions from production covered by the trading scheme are subject to the allowance price, while CO_2 emissions outside the trading scheme are subject to a CO_2 tax. The trading companies are therefore obliged to surrender CO_2 greenhouse gas emission allowances resulting from the trading activities. Companies are therefore already currently paying for CO_2 emissions through allowances instead of a CO_2 tax.

According to Section 9b(1) of the CO_2 Tax Act, a repayment may be granted to VAT-registered companies on the tax for heating supplied from a production unit with a permit for emitting CO_2, cf. the CO_2 Allowances Act, to the company, and which are used for process purposes, which are repayable under Section 11 of the Mineral Oil Tax Act, Section 10 of the Gas Tax Act and Section 8 of the Coal Tax Act.

Under Section 9c of the CO_2 Tax Act, certain VAT-registered companies without a permit to emit CO_2, which use taxable fuels covered by Section 2(1)(1–10), (11), first sentence, (12) and (17), of the Act, may obtain a basic allowance from the company's payment of taxes on the aforementioned fuels used for process purposes, which are repayable under Section 11 of the Mineral Oil Tax Act, Section 10 of the Gas Tax Act or Section 8 of the Coal Tax Act. If the basic allowance exceeds the payment of taxes calculated in accordance with the rules referred to in Section 9c(1), first sentence, the company may obtain the remaining basic allowance from the company's payment of taxes on fuels referred to in the first sentence, which are used for the production of electricity, and which are repayable or exempt from tax under Section 9 (2) and (3) of the Mineral Oil Tax Act, Section 8(2) and (3) of the Gas Tax Act or Section 7(1) and (2) of the Coal Tax Act.

The scope of the CO_2 Tax Act covers Danish territory, including the territorial sea up to 12 nautical miles.

3.1.2. Tax Collection Act

Part 2 of the Tax Collection Act contains rules on the settlement of taxes and duties, etc. These apply, inter alia, to the settlement of energy taxes and the CO_2 tax.

Registered and unregistered companies, although they are required to do so, apply the rules laid down in the Tax Collection Act, cf. Section 1(1) of the Tax Collection Act.

Section 2(1) of the Tax Collection Act stipulates that the settlement period (tax period) is the calendar month. For each tax period and each tax or duty, etc., a declaration must be submitted containing the information resulting from the rules laid down in each tax law. The Act's declarations relating to the acts referred to in Annex 1, List A, shall be submitted to the Tax Administration no later than the 15th day of the first month following the end of the settlement period, cf. Section 2(2), first sentence. If the last due date for the declaration is a bank holiday, the next working day shall be deemed to be the last due date for the declaration, cf. Section 2(3). Taxes and duties, etc. (liability) shall be paid before the deadline for declaration expires, cf. Section 2(4).

Declarations under Section 2 of the Tax Collection Act must be signed by the company's responsible management, cf. Section 3(1), but the Tax Administration may authorise the submission of the declaration by electronic data transfer and the Minister for Taxation may lay down detailed rules on such declarations, cf. Section 3(2). Section 1(1) of Order No 731 of 21 June 2013 on the collection of taxes and duties, etc., stipulates that taxes and duties, etc. collected pursuant to Section 2 of the Tax Collection Act must be declared digitally using the digital channels indicated by the Tax Administration.

If, after the deadline for delivery has passed, the Tax Administration has not received a declaration for a settlement period, it may provisionally set the company's tax and duty liability, etc. at an estimated amount, cf. Section 4(1), first sentence, of the Tax Collection Act. For having such a provisional determination, the company shall pay a fee of DKK 800, cf. Section 4(2). If, in four consecutive settlement periods for the same registration condition, a company has received a provisional determination of its tax or duty liability, etc., the Tax Administration may, after giving prior notice, withdraw the registration that the company holds with the Tax Administration in respect of the registration condition in question, unless the company submits the missing declarations before the withdrawal, cf. Section 4(3), first and third sentences. The management of a company which, intentionally or through gross negligence, continues to run the company, even if registration has been withdrawn as specified in paragraph 3, is personally, and jointly and severally liable, to an unlimited extent, for the taxes and duties, etc. covered by the Act, arising as a result of the unregistered activity, cf. Section 10b of the Tax Collection Act.

The Tax Administration may order the taxable entity to comply with the provisions laid down in Section 2(1) and (2) of the Tax Collection Act and may impose daily fines on the taxable entity under Section 18a until the order is complied with, cf. Section 4a(1).

If a company has failed to make both a correct and timely declaration or report amounts covered by Section 2(1), fourth sentence, of the Tax Collection Act, or an amount which has been estimated in accordance with Section 4(1) does not correspond to the correct amount, so that the company has paid too little in taxes or duties, etc., or has been overpaid in terms of negative liability or reimbursement, the company shall pay the amount due, cf.

Section 5(1), first sentence. In the case of payment of the underpayment of tax or duty liability, etc. and of the claim for repayment of overpaid negative liability or reimbursement, the payment deadline used for timely declaration or reporting shall apply, cf. the second sentence.

If the amount of the liability owed by the company or the settlement period or the day to which the liability relates cannot be determined on the basis of the company's accounts, the Tax Administration may estimate the liability or the settlement period or day to which the liability relates, cf. Section 5(2), first sentence, of the Tax Collection Act. If a company has received an excessive amount as negative liability or reimbursement, and the amount which the company must therefore repay cannot be calculated on the basis of the company's accounts, the Customers and Tax Administration may accordingly estimate the amount, cf. the second sentence. It is clear from the third sentence that paragraph 1, second sentence, applies mutatis mutandis to the payment of the liability under paragraph 2, first sentence, and the amount under the second sentence.

Sections 5a–5g of the Tax Collection Act contain rules on auditor orders. Therefore, unless the company is undergoing restructuring or bankruptcy proceedings, cf. Section 5a(3), the Tax Administration may decide under Section 5a(1) that a certified or registered accountant for the company shall draw up accounts on the basis of which a periodic declaration can be calculated in accordance with the rules of the individual tax law if (1) the company has not drawn up accounts on the basis of which a periodic declaration can be calculated in accordance with the rules of the individual tax law; or if (2) the amount of the company's liability cannot be determined on the basis of the company's accounts.

A fee of DKK 65 shall be paid for reminder letters concerning payment under the Tax Collection Act, cf. Section 6 of the Tax Collection Act.

Under Section 8(1) of the Tax Collection Act, the Tax Administration may, where special circumstances so require, grant an exemption from payment of (1) tax from the provisional determination of liability under Section 4(2); (2) a fee under Section 6; (3) interest under Section 7; and (4) interest under Section 16c(1) and (2).

Section 11 of the Tax Collection Act contains rules on the security which, if certain objective and subjective conditions are met, may be demanded from a company already registered, cf. paragraph 1, or a company to be registered, cf. paragraph 2. If a company fails to provide security as required, registration shall be withdrawn or refused, cf. Section 11(9) of the Tax Collection Act.

Section 12 of the Tax Collection Act contains rules on the payment by the Tax Administration of negative liability and amounts wrongly overpaid by a company, cf. paragraph 1. Such amounts shall be paid within 3 weeks of the timely receipt of the declaration or the day on which the company has brought the error to the attention of the Tax Administration or the Tax Administration itself has detected the error, cf. paragraph 2. However, in accordance with paragraph 3, the time limit for payments of negative liability may be suspended if, owing to the circumstances of the company, the Tax Administration is unable to check the declaration. The suspension shall last until the company's circumstances no longer obstruct inspections. The Tax Administration may also, if it is considered that payment on the basis of the information provided would entail an imminent risk of loss of tax, cancel the payment deadline or require security provision until the company's circumstances have been examined.

Amounts which should have been paid under paragraph 1 may be withheld in accordance with paragraph 4 if declarations relating to completed settlement periods have not been submitted. Claims for liability and any interest due for these periods shall be offset against the payment of amounts in accordance with paragraph 1, even if the claim is not due. Amounts under paragraph 1 may also be withheld if the company has not provided information to the Tax Administration in due time in accordance with Section 2 of the Tax Inspection Act. Negative liability under paragraph 1, which are included in a comprehensive account calculation of the company's tax and duty liability, etc. in accordance with the rules in Part 5 on the tax account, may be paid under paragraph 5 only if the negative liability is offset by a credit balance calculated in accordance with Section 16a(2), second sentence.

Claims for payments under Section 12 of the Tax Collection Act may not be transferred before the end of the settlement period to which the claim relates and agreements on such transfers are invalid, cf. Section 13(1) of the Tax Collection Act. Transfers pursuant to paragraph 1 may not, according to paragraph 2, exceed the amount of payment that can be calculated in accordance with Section 12(5).

Part 5 of the Tax Collection Act contains rules on the tax account to be used for payments from and to undertakings, companies, foundations and associations, public authorities and institutions, etc. These payments, which relate, inter alia, to taxes and duties. covered by Section 1(1) and (2), are included in an overall balance statement (tax account) in accordance with the rules in Part 5, cf. Section 16.

Section 16a(1) of the Tax Collection Act stipulates that payments of taxes and duties, etc. covered by Section 16 are automatically set off on the basis of a balance principle, under which all receipts and payments from and to companies are always offset, and that notice of set-off is shown in the tax account.

Section 16a(2), first sentence, of the Tax Collection Act stipulates that if the total amount of registered claims due in the company's account exceeds the total amount of registered and due debts owed to the company, the difference (debit balance) is to be the total amount owed by the company to the Tax Administration. If, on the other hand, the total amount of registered and due claims for payments from the company is less than the registered and due claims for payments made to the company, the differ-

ence (credit balance) is the total receivable of the company from the Tax Administration, cf. the second sentence.

In accordance with Section 16a(3), claims for payments are recorded in the tax account from the time when they have been declared or the claims can be established with certainty.

In accordance with Section 16a(4), claims for payments from companies affect (debit) the balance statement pursuant to paragraph 2 from the latest due date for paying the amount.

Payments from companies to meet requirements under paragraph 4 affect (credit) the balance statement pursuant to paragraph 2 from the date of payment, irrespective of the method of payment, cf. Section 16a(5) of the Tax Collection Act.

Section 16a(6) of the Tax Collection Act stipulates that receivables to companies covered by Part 5 of the Tax Collection Act, concerning the tax account, affect (credit) the balance statement pursuant to paragraph 2 from the date on which the amount can be calculated in accordance with Section 12 of the Tax Collection Act, which deals with the payment by the Tax Administration to the company of, inter alia, negative VAT and the repayment of amounts paid in error, cf. paragraph 1.

Payments to companies to meet requirements under paragraph 6 shall affect (debit) the balance statement pursuant to paragraph 2 at the time when payments are made to the company, cf. Section 16a(7) of the Tax Collection Act.

Where companies' payments are used, in whole or in part, to pay a debit balance made up of several claims, the payment is first made to cover the oldest due claim, cf. Section 16a(8) of the Tax Collection Act.

Amounts which are not paid in due time to the tax account shall accrue interest in accordance with Section 16c(1) of the Tax Collection Act, with the interest provided for in Section 7(1) of the Tax Collection Act, cf. paragraph 2. The interest rate is calculated on a daily basis and charged on a monthly basis. Interest is not deductible. A debit balance of DKK 200 or less does not accrue interest after registration of the company's discontinuation. A credit balance does not accrue interest, cf. paragraph 3.

Section 16c(4) of the Tax Collection Act stipulates that if a debit balance for a company exceeds DKK 5 000, the full amount is to be paid immediately and the Tax Administration issues a reminder to the company to that effect. The Tax Administration does not issue reminders for a debit balance of DKK 5 000 or less. However, a reminder is sent to discontinued companies, even where the debit balance is greater than DKK 200 and less than DKK 5 000. If the amount is not paid before the deadline specified in the reminder, the amount may be transferred for recovery. An amount transferred for recovery will be shown in the tax account. A fee shall be charged as specified in Section 6 when a reminder is sent.

Section 16c(5) of the Tax Collection Act stipulates that a credit balance is to be paid to the company's Nemkonto, unless the company has requested a cap on the payment of a credit balance. A cap for payment of a credit balance may not exceed DKK 200 000, although up to and including 1 April 2021 it amounted to DKK 100 billion, cf. Section 11, No 3, of the Act on interest-free loans corresponding to declared VAT and payroll tax and advance payment of tax credits, etc. due to COVID-19. Payment of a credit balance cannot be made until at least DKK 200 can be paid. However, companies can ask for any amount to be paid out. Payment of a credit balance may not be made if the company has failed to submit declarations for closed periods or to provide the Tax Administration with information under Section 2 of the Tax Inspection Act, cf. Section 12(4) of the Tax Collection Act. A credit balance of DKK 200 or less belonging to a company which has ceased to exist shall lapse three years after the registration of the company's discontinuation. This deadline may not be cancelled or suspended.

Section 16c(6) of the Tax Collection Act stipulates that the payment of a credit balance is pending tax and duty claims if the final payment deadline for the claim is within five working days from the date on which the credit balance arose. However, if the credit balance arises as a result of the company's liability for a settlement period, the credit balance shall be paid at the latest after the expiry of the time limit laid down in Section 12(2), under which payment under paragraph 1 shall be made no later than three weeks after receipt of the report for that period, and if the repayment is due to an error in the payment, the amount shall be repaid within three weeks after the company has informed the Tax Administration of the error or after the Tax Administration has detected the error.
Part 6 of the Tax Collection Act contains in Sections 17–19b provisions on penalties and sanctions.

3.1.3. Emissions Trading Directive

The Emissions Trading Directive establishes a system and market for the trading of CO_2 allowances and is transposed into Danish law by the CO_2 Allowances Act and Order No 1819 of 28 December 2023 on CO_2 allowances (hereinafter 'the CO_2 Allowances Order'). The Emissions Trading Directive imposes an obligation on companies to surrender allowances for certain greenhouse gas emissions resulting from an activity covered by Annex I (ETS 1) or III (ETS 2) of the Directive. The allowances are sold on a market for these allowances and therefore have an economic value. Free allocation of allowances is being phased out.

The trading activities covered by Annex 1 constitute a number of processes in stationary installations, including in particular the combustion of fuel for space heating, etc. and industry in stationary installations, including mineralogical processes exceeding certain capacities, and avia-

tion. Trading activities at stationary installations (ETS 1) represent a wide range of production processes, etc., including the production of cement clinker, the refining of oil and the production of ammonia. A de minimis threshold applies in a large number of cases, so only installations with, for example, a certain production capacity can be considered as carrying out trading activities. The Emissions Trading Directive covers both energy-related and non-energy related emissions from these activities.

From 1 January 2024, the Annex shall be extended to maritime transport on ships above 5 000 gross tonnage.

In addition, Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC has been extended to include a new allowance system (ETS 2) covering CO_2e emissions from the consumption of heating fuels in the buildings sector and as motor fuels in the road transport and other sectors. The allowance surrender obligation in ETS 2 arises from 2027.

Aviation is covered by ETS 1 from the Emissions Trading Directive. Trading aviation covers in principle all intra-EU flights as well as all flights between the EU and third countries. However, flights with aircraft with a take-off mass of less than 5 700 kg are flights by commercial operators that have fewer than 243 flights per four-month period or emit less than 10 000 tonnes CO_2 per year, and a number of specific cases excluding transport of the reigning Monarch, etc., military flights, etc.

Trading maritime transport includes maritime transport activities covered by Article 1 of Council Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport and amending Directive 2009/16/EC (hereinafter 'the MRV Regulation), with the exception of the maritime transport activities covered by Article 2(1) (a) and, until 31 December 2026, Article 2(1b) of this Regulation. Trading maritime transport includes ships of 5 000 gross tonnage and above when the voyage is for the carriage of goods or passengers for commercial purposes. From 2027 offshore ships of 5 000 gross tonnage and above will also be included.

Under the Emissions Trading Directive, allowances are not to be surrendered for other trading emissions where the emissions come from sustainable biomass. This includes, for example, biogas from the gas network for which a company obtains a guarantee of origin.

Operators in the trading scheme must monitor and report their greenhouse gas emissions. In addition, operators shall have this monitoring and reporting verified by an independent verifier. The verifier must be accredited by an authorised accreditation body, which in Denmark is DANAK – the Danish Accreditation Fund. Finally, operators must surrender allowances corresponding to their emissions in tonnes.

According to rules in the CO_2 Allowances Act laid down pursuant to the Emissions Trading Directive, operators in the trading stationary companies must be in possession of monitoring plan and an emissions permit before they can emit trading greenhouse gases.

On the basis of the Emissions Trading Directive, two regulations have been issued concerning monitoring and reporting requirements, Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulations No 601/2012/EU (hereinafter 'the MR Regulation') and the MRV Regulation. These two regulations stipulate that companies must draw up a monitoring plan to be approved by the national competent authority. After the end of a calendar year, the operator shall submit an emissions report to the competent authority. In Denmark, the competent authority is the Danish Energy Agency.

For aviation and maritime transport emissions, an aircraft operator and a maritime operator respectively shall also be in possession of monitoring plan and submit an emissions report to a competent authority. Monitoring and reporting shall be verified by an accredited verifier before submission to the authority. An administering Member State shall be appointed for each aircraft operator and shipping company. The aircraft operator or shipping company shall surrender allowances to the competent authority of the administering Member State.

Under Article 18a of the Emissions Trading Directive, the administering Member State in respect of an aircraft operator shall be (a) in the case of an aircraft operator with a valid operating licence granted by a Member State in accordance with the provisions of Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers (1), the Member State which granted the operating licence in respect of that aircraft operator; and (b) in all other cases, the Member State with the greatest estimated attributed aviation emissions from flights performed by that aircraft operator in the base year. The Commission will adopt annually an updated regulation listing the aircraft operators covered by the Emissions Trading Directive, specifying the administering Member State for each aircraft operator, most recently by Commission Regulation (EU) 2022/455 of 14 March 2022.

Under Article 3gf, the administering authority in respect of a shipping company shall be (a) in the Member State in which the shipping company is registered; (b) if the shipping company is not registered in a Member State, the Member State with the greatest estimated number of port calls from voyages performed in the preceding four monitoring years; (c) if the shipping company is not registered in a Member State and did not carry out any trading voyage in the preceding four monitoring years, the Member State where a ship of the shipping company has started or ended its first trading voyage.

Therefore, emissions reports should not be submitted to the Danish Energy Agency, which is the competent authority in Denmark, for all domestic voyages or flights in Denmark.

The price of an allowance in ETS I is currently around DKK 650 per tonne of CO_2. The price is constantly revised in the light of supply and demand. Recent amendments to the Emissions Trading Directive further reduce supply with a view to increasing the price.

The Emissions Trading Directive provides for an obligation to surrender allowances for energy- and non-energy related emissions from fuels used for exhaustively listed processes, as well as fuels used for intra-EU flights, as listed in Annex I to the Directive.

In the last amendment of the Emissions Trading Directive in 2023, voyages have been included. Emissions from motor fuels other than biofuels are currently covered by the CO_2 Tax Act, whereas these emissions are generally excluded from the scope of the Emissions Trading Directive at present. The Emissions Trading Directive therefore currently covers emissions from activities listed in Annex I to the Emissions Trading Directive, which includes emissions from listed energy-intensive industrial processes, aviation and maritime transport.

The Emissions Trading Directive also covers activities within the Danish exclusive economic zone, including emissions from the North Sea. The exclusive economic zone is defined in the United Nations Convention on the Law of the Sea of 10 December 1982 as the zone of a coastal State in which the State has the exclusive right to explore and exploit the natural resources of the sea and the seabed and its subsoil, as well as to any other economic use. The exclusive economic zone must not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

3.1.3.1. Calculation of emissions from stationary installations

Emissions from trading activities at stationary installations shall be accounted for in accordance with the MR Regulation. Chapter III of the Regulation sets out the rules on the monitoring of emissions from stationary installations.

Under Article 21 of the Regulation, the operator of a stationary installation chooses to use either a calculation-based methodology or a measurement-based methodology. A calculation-based methodology shall consist in determining emissions from source streams on the basis of activity data obtained by means of measurement systems and additional parameters from laboratory analyses or default values. The calculation-based methodology may be implemented in accordance with the standard methodology set out in Article 24 or the mass balance methodology set out in Article 25. The calculation-based methodology is specified in Chapter III, Section 2 of the Regulation.

A measurement-based methodology shall consist in determining emissions from emission sources by means of continuous measurement of the concentration of the relevant greenhouse gas in the flue gas and of the flue-gas flow, including the monitoring of CO_2 transfers between installations where the CO_2 concentration and the flow of the transferred gas are measured. The measurement-based methodology is specified in Chapter III, Section 3 of the Regulation.

Annex II to the Regulation also regulates tiers for calculation factors for combustion emissions, mass balances and CO_2 process emissions. Annex IV also lists activity-specific monitoring methodologies related to processes carried out in stationary installations. In addition, reference values for calculation factors, including stoichiometric emission factors for process emissions from, inter alia, carbonate decomposition are set out in Annex IV.

3.1.3.2. Calculation of emissions from domestic aviation

Emissions from trading aviation must be calculated in accordance with the MR Regulation. Chapter IV of the Regulation lays down rules on the monitoring of emissions and tonne-kilometre data from aviation.

Annex III also deals with calculation methods for determining of GHGs in the aviation sector. For this reason, these methods of calculation must be used in determining the taxable quantity. Annex X also sets out requirements for the annual emissions report for aircraft, including requirements on the total number of flights per State pair covered by the report, as well as, under Section 2, No 13, the operator shall include annual emissions and annual numbers of flights per aerodrome pair as an annex to the annual emissions report.

3.1.3.3. Calculation of emissions from domestic maritime transport

Emissions from trading domestic maritime transport must be calculated in accordance with the MRV Regulation. Chapter I, Section I sets out, inter alia, the principles and methods for monitoring and reporting. The company, which may consist of the shipowner or other organisation that has assumed responsibility for the operation of the ship for the shipowner, shall monitor greenhouse gas emissions in accordance with one of the methods set out in Annex I to the Regulation and monitor relevant information in accordance with Annex II to the Regulation or rules adopted pursuant thereto.

The Commission may adopt delegated acts to amend Annex I and Annex II to the Regulation.

Annex I provides for a calculation of CO_2 emissions. This is done by multiplying the fuel consumption from the covered voyage by an emission factor set out in the Annex. For fuels for which no standard emission factor is set out in the Annex, relevant emission factors are used. Actual fuel consumption for each voyage shall be used and be calculated using one of four methods: (1) Bunker Fuel Delivery Note (BDN) and periodic stocktakes of

fuel tanks; (2) bunker fuel tank monitoring on board; (3) flow meters for applicable combustion processes; or (4) direct CO_2 emissions measurements. The verifier may allow the use of a combination of these methods.

Article 9 requires companies to monitor, for each ship arriving in or departing from, and for each voyage to or from, a port under a Member State's jurisdiction, inter alia, the port of departure and port of arrival including the date and hour of departure and arrival, the amount and emission factor for each type of fuel consumed in total, greenhouse gas emitted and distance travelled. This obligation is set out, inter alia, in Annex II(A)(1). The aggregated emissions data at company level shall be submitted to the competent authority together with the annual emissions report referred to in Article 11(1).

3.1.3.4. Control of trading emissions

Under the Emissions Trading Directive, an operator of a stationary installation must hold an emissions permit issued by the competent authority of the Member State before the emissions from the production unit covered by the Directive can be emitted, in accordance with Article 5(1) of the Emissions Trading Directive. Operators in Denmark must apply for an emissions permit from the Danish Energy Agency, which is the competent authority in Denmark.

The terms and content of the emissions permit are stipulated by Article 6(2)(a–e). It follows that the emissions permit must contain (a) the name and address of the operator; (b) a description of the activities and emissions from the installation; (c) a monitoring plan – which must include, inter alia, information on the production installation, the calculation methodology that will be sued, and the tier and monitoring by which the installation is to be covered; (d) reporting requirements; and (e) an obligation to surrender allowances equal to the total emissions of the installation in each calendar year.

The monitoring plan is the basis for monitoring and reporting the emissions of an operator's production unit in the allowance trading system and is an integral part of an operator's and a fuel operator's emissions permit. It is a condition for the emissions permit that the monitoring plan complies with the provisions of the MR Regulation, including that it is properly updated. The operator shall submit a draft monitoring plan in the electronic reporting system EDO (Energi Data Online [Energy Data Online]).

Once the monitoring plan has been checked and approved by the Danish Energy Agency, the Danish Energy Agency shall issue an emissions permit. The operator shall then keep the Danish Energy Agency informed of any planned changes in the nature or operation of the installation or any extension or significant reduction of its capacity which may require the emissions permit to be updated or if the operator is replaced. On the basis of this information, the Danish Energy Agency shall update the emissions permit in accordance with Article 7 of the Emissions Trading Directive.

Aircraft operators and maritime operators shall not be required to have emissions permits issued before they can emit greenhouse gases.

It is the responsibility of the operator or the fuel operator to ensure that there is at all times a valid emissions permit required by the trading scheme.

Trading companies shall report emissions by 31 March at the latest of each year, for maritime operators and fuel operators by 30 April at the latest. However, the Danish Energy Agency shall set a recommended earlier deadline each year. In order to report emissions, the operator shall be in possession of monitoring plan and have an agreement with an accredited verifier for the verification of the emissions report.

It follows from Article 15 of the Emissions Trading Directive that the reports submitted by operators must be verified by an accredited verifier acting as an independent third party. The rules on verification and accreditation follow from Commission and Council Regulation (EU) 2018/2067 on accreditation and verification (AV Regulation).

In Denmark, the accreditation fund, DANAK, carries out the task as a national accreditation body, but verifiers can also work in Denmark on the basis of accreditation in another EU Member State. Accreditation means certification by a national accreditation body that the verifier meets the requirements set out in harmonised standards as referred to in Article 2, No 9, of Regulation (EC) No 765/2008 of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products, and requirements established pursuant to the AV Regulation to carry out the verification of an operator's report, cf. Article 3, No 2.

Verification means the activities carried out by the verifier to issue a verification report pursuant to the Regulation, cf. Article 3, No 4.

The general obligations of the verifier follow from Article 7 of the Regulation and require, inter alia, that the verifier shall report in the verification report on identified non-compliance with the MR Regulation, even if the relevant monitoring plan or monitoring methodology has been approved by the competent authority.

It follows from Article 13 of the AV Regulation that the verifier shall prepare a draft verification plan proportionate to the information provided and the risks identified in the context of a strategic analysis referred to in Article 11, and a risk analysis as referred to in Article 12, which shall include a set of minimum requirements, such as a verification programme, a testing plan and a data collection plan.

The verifier shall verify the data in the operator's or aircraft operator's report by applying detailed testing of the data, including by tracing the data back to the primary data source, cross-checking data with external data sources, performing reconciliations, checking thresholds

regarding appropriate data and carrying out recalculations, cf. Article 16.

The verifier shall assess, on the basis of the outcome of the risk analysis, what type and scope of controls are necessary. For example, the risk analysis may justify a sampling approach or an approach where certain data is fully checked.

During the verification process, the verifier shall carry out a site visit to assess, inter alia, the functioning of meters and monitoring systems, carry out interviews and collect material to determine, inter alia, whether the emissions report is free from material misstatements. Exemption from site visits may be granted in certain cases or virtual site visits may be carried out, but both require the approval of the Danish Energy Agency.

After verification, the verifier shall prepare an internal verification document which, together with the completed verification report, shall be reviewed by an independent reviewer, such as a verifier from the same company who has not participated in the verification process.

The verifier shall submit the verified report to the Danish Energy Agency.

The Danish Energy Agency review all reports submitted by operators and verifiers and examines whether there are discrepancies between them. In the event of anomalies, the Danish Energy Agency shall make corrections. The Danish Energy Agency may, in accordance with Section 23 of the CO_2 Allowances Order, set out the emissions caused by an asset or activity covered by the trading scheme if the operator has not submitted the annual emissions report by the deadline, the annual emissions report is not in accordance with the rules of the trading scheme or the emissions report has not been verified in accordance with the trading scheme. This possibility follows from Article 70 of the MR Regulation.

The European Commission may also request that a continuous check be carried out on a particular issue. In these cases, retrospective adjustments may be made in accordance with the general rules on limitation of property law.

Article 67(1) of the MR Regulation requires the operator or aircraft operator to keep records of all relevant data and information, including information as listed in Annex IX of the Regulation, for at least 10 years. This includes (1) an approved monitoring plan; (2) documents for the selection of the monitoring methodology and temporal and non-temporal changes of monitoring methodologies and, where applicable, tiers approved by the competent authority; (3) all relevant updates of monitoring plans notified to the competent authority and the authority's replies; (4) all written procedures referred to in the monitoring plan, including sampling, the procedures for data flow activities and the procedures for control activities; (5) list of all versions used of the monitoring plan and all related procedures; (6) documentation of the responsibilities in connection to the monitoring and reporting; (7) the risk assessment performed by the operator or aircraft operator; (8) the improvement reports in accordance with Article 69; (9) the verified annual emission report; (10) the verification report; and (11) any other information that is identified as required for the verification of the annual emissions report.

In addition, in accordance with Annex IX, specific requirements apply to stationary source installations for storing, inter alia, the following information (1) the greenhouse gas emissions permit, and any updates thereof; (2) any uncertainty assessments, where applicable; (3) for calculation-based methodologies applied in installations: (a) the activity data used for any calculation of the emissions for each source stream, categorised according to process and fuel or material type; (b) a list of all default values used as calculation factors; (c) the full set of sampling and analysis results for the determination of calculation factors; (4) for measurement-based methodologies in installations, inter alia, the following: (a) documentation justifying the selection of a methodology; (b) data used for the uncertainty analysis of emissions from each emission source, categorised according to process; (c) data used for the corroborating calculations and results of the calculations; (d) detailed technical description of the continuous measurement system including the documentation of the approval from the competent authority.

In addition, in accordance with Annex IX, specific requirements apply to aircraft operators to retain the following information: (1) a list of aircraft owned, leased-in and leased-out, and necessary evidence for the completeness of that list; for each aircraft the date when it is added to or removed from the aircraft operator's fleet; (2) a list of flights covered in each reporting period, and necessary evidence for the completeness of that list; (3) relevant data used for determining the fuel consumption and emissions; (4) data used for determining the payload and distance relevant for the years for which tonne-kilometre data are reported; and (5) documentation on the methodology for data gaps where applicable, the number of flights where data gaps occurred, the data used for closing the data gaps, where they occurred, and, where the number of flights with data gaps exceeded 5 % of flights that were reported, reasons for the data gaps as well as documentation of remedial actions taken.

3.2. Considerations of the Danish Ministry of Taxation and the proposed scheme

3.2.1. Tax base

In order to implement the Green Tax Reform Agreement, etc., it is proposed to introduce a new emissions tax. At the same time, an ancillary draft Act to this draft Act proposes to restructure the current energy and CO_2 taxes.

The emissions tax shall cover greenhouse gases emitted from activities in Denmark covered by Annex I to the Emissions Trading Directive. The greenhouse gases covered by the Directive constitute carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons

(HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF6) when released from activities listed in Annex I to the Directive.

Annex I to the Emissions Trading Directive is an exhaustive list of activities covered by the new emissions tax. It is therefore emissions from trading activities covered by ETS I that are subject to tax. The activities covered occur in energy-intensive industry, including oil refining, production of coke, cement clinker, glass, heat production, electricity generation, fuel combustion other than hazardous waste, EU aviation and EU maritime transport. There are de minimis limits when activities are covered by the Emissions Trading Directive, as set out in Annex I to the Emissions Trading Directive. Similarly, Annex I to the Emissions Trading Directive also states that CO_2 capture under certain conditions is not covered by the trading scheme. In these cases, the emissions tax will also not apply to the CO_2 in question.

The activities in Annex I to the Emissions Trading Directive (ETS 1) are proposed to be included as Annex 1 to this draft Act, as the emissions tax is imposed on these activities.

With a tax on greenhouse gas emissions from trading activities, both energy-related and non-energy related emissions, including from the production of cement, tiles, etc., are subject to the tax.

The tax will only cover greenhouse gas emissions from activities carried out in Denmark. The tax will therefore only apply to emissions from stationary installations in Denmark, domestic aviation and domestic ferry services, which are listed in Annex 1 to the draft Act.

Domestic aviation refers to trading flights starting and ending in Denmark, including the territorial sea and Denmark's exclusive economic zone. This means Danish land and territorial sea and the exclusive economic zone.

According to Annex I to the Emissions Trading Directive, maritime transport other than ferry services are also subject to the tax. It would impose a significant administrative burden on companies and authorities to levy a tax on greenhouse gas emissions from all trading domestic maritime transport in addition to domestic ferry services. This is because these ships are moving more across national borders and territories and it will therefore be necessary to reimburse a large proportion of the tax from maritime transport. This would impose major requirements in terms of documentation, etc., which would be very costly.

It is proposed that the Emissions Tax Act should cover emissions from Denmark, including the territorial sea and Denmark's exclusive economic zone. As a result, the geographical scope of the Emissions Tax Act will be similar to that of the Emissions Trading Directive and, therefore, in terms of the emissions for which allowances will have to be surrendered. Therefore, the tax will also cover emissions from, inter alia, trading stationary installations in the exclusive economic zone. The exclusive economic zone is defined in the United Nations Convention on the Law of the Sea of 10 December 1982 as the zone of a coastal State in which the State has the exclusive right to explore and exploit the natural resources of the sea and the seabed and its subsoil, as well as to any other economic use. The exclusive economic zone must not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured. Consequently, Danish CO_2 reduction targets cover emissions from Denmark, including the North Sea, but not the Faroe Islands and Greenland.

The Emissions Tax Act is also proposed to cover emissions from sustainable biogas with an associated guarantee of origin. The guarantees of origin are not used in the applicable CO_2 Tax Act or the energy tax acts and, therefore, the emissions tax will not be able to have deducted the tax on emissions from biogas for which guarantees of origin have been purchased. Emissions from sustainable biogas are reported in the emissions report and verified in accordance with the current rules of the Emissions Trading Directive.

3.2.2. Tax amount

As part of the Green Tax Reform Agreement, etc., it is proposed that the emissions tax should be DKK 75 per tonne of CO_2 in 2025, DKK 135 per tonne of CO_2 in 2026, DKK 195 per tonne of CO_2 in 2027, DKK 255 per tonne of CO_2 in 2028, DKK 315 per tonne of CO_2 in 2029 and DKK 375 per tonne of CO_2 starting in 2030 (2022 prices).

The tax rate for the Emissions Tax Act is proposed on the basis of a basic amount set at 2015 levels, under which the rate is adjusted annually in accordance with changes in the net price index, cf. Section 32a of the Mineral Oil Tax Act.

From 1 January 2025, the basic amount at 2015 levels is proposed to be DKK 71.2 per tonne of CO_2; from 1 January 2026, the basic amount at 2015 levels is proposed to be DKK 128.1 per tonne of CO_2; from 1 January 2027, the basic amount at 2015 levels is proposed to be DKK 185.0 per tonne of CO_2; from 1 January 2028, the basic amount at 2015 levels is proposed to be DKK 241.9 per tonne of CO_2; from 1 January 2029, the basic amount at 2015 levels is proposed to be DKK 298.9 per tonne of CO_2; from 1 January 2030 onwards, the basic amount at 2015 levels is proposed to be DKK 355.8 per tonne of CO_2.

However, it is proposed that the tax on greenhouse gas emissions from mineralogical processes, etc. should be DKK 100 per tonne of CO_2 in 2025, DKK 105 per tonne of CO_2 in 2026, DKK 110 per tonne of CO_2 in 2027, DKK 115 per tonne of CO_2 in 2028, DKK 120 per tonne of CO_2 in 2029 and DKK 125 per tonne of CO_2 starting in 2030 (2022 prices).

The tax rate for the Emissions Tax Act is proposed on the basis of a basic amount set at 2015 levels, after which the rate is adjusted annually in line with changes in the net price index, cf. Section 32a of the Mineral Oil Tax Act.

From 1 January 2025, the basic amount at 2015 levels is proposed to be DKK 94.9 per tonne of CO_2; from 1 January 2026, the basic amount at 2015 levels is proposed to be DKK 99.6 per tonne of CO_2; from 1 January 2027, the basic amount at 2015 levels is proposed to be DKK 104.4 per tonne of CO_2; from 1 January 2028, the basic amount at 2015 levels is proposed to be DKK 109.1 per tonne of CO_2; from 1 January 2029, the basic amount at 2015 levels is proposed to be DKK 113.9 per tonne of CO_2; from 1 January 2030 onwards, the basic amount at 2015 levels is proposed to be DKK 118.6 per tonne of CO_2.

3.2.3. Registration obligation

It is proposed that companies for which an operator, by virtue of Section 4 of the CO_2 Allowances Act, must hold an emissions permit issued by the Danish Energy Agency, shall be registered with the Tax Administration. Registration shall be made within 14 days of receipt of an emissions permit.

Companies subject to registration must calculate their tax base and report and pay tax.

Under the trading scheme, an operator of a stationary installation must hold an emissions permit from the Danish Energy Agency before the production unit's trading emissions may be emitted.

It is proposed that if the operator already holds an emissions permit when the Act entered into force on 1 January 2025, the company must register with the Tax Administration by 14 January 2025 at the latest.

It is proposed that companies operating domestic aviation in Denmark for which an aircraft operator is subject to the obligation to surrender allowances under the Emissions Trading Directive should be registered with the Tax Administration.

The obligation will only apply to companies active in the trading domestic aviation sector in Denmark. It is not a condition that the company surrenders allowances to the Danish part of the EU allowance registry, which is administered by the Danish Business Authority. Therefore, companies operating domestic aviation in Denmark but having to surrender allowances for flights in Denmark to the EU allowance registry in another EU Member State must also register for emissions tax with the Tax Administration.

It is proposed that companies operating domestic maritime transport in Denmark and subject to the obligation to surrender allowances under the Emissions Trading Directive should be registered with the Tax Administration.

The obligation will only apply to companies active in the trading domestic ferry service sector in Denmark. However, it is not a condition that the company surrenders allowances to the Danish part of the EU allowance registry. Companies which operate domestic ferry services in Denmark but are required to surrender allowances for voyages in Denmark to the EU allowance registry in another EU Member State must therefore also register for emissions tax with the Tax Administration.

It is proposed that companies with trading domestic aviation or domestic ferry services will have to register no later than 14 days after the company's monitoring plan has been approved by the Danish Energy Agency or a competent authority in another EU country in accordance with the Emissions Trading Directive, if it is expected that the company will be subject to the obligation to surrender allowances.

It is proposed that domestic aviation or domestic ferry companies that have to surrender allowances for 2024 should register with the Tax Administration by 14 January 2025 at the latest. For domestic ferry services, the registration obligation is proposed to apply on 14 January 2025 regardless of the existence of an approved monitoring plan at that time. The reason for the transitional rule for maritime transport is that only from 2025 onwards will maritime transport be subject to the obligation to surrender allowances under the Emissions Trading Directive, but Member States are first required to approve maritime transport monitoring plans by 6 June 2025 at the latest.

It is proposed that, in principle, a company is expected to be subject to the tax liability once it has been subject to the obligation to surrender allowances to a competent authority in the previous year, for emissions arising from activities that will be covered by this draft Act. However, exceptional circumstances may suggest that a company which meets these criteria is not required to register for emissions tax. This may be the case, for example, where there have been major operational changes which are deemed to have an impact on tax liability.

It is proposed that a company which has been in possession of a monitoring plan or had an obligation to surrender allowances in previous years should register with the Tax Administration at the time when it could be assumed that, at the end of the year, the company will have to surrender allowances to a competent authority for emissions arising from activities that will be taxable under the Emissions Tax Act. The company is required to declare and settle the tax from the time of registration or when it should have registered.

In principle, the draft Act follows the general rules for registration in the excise duty laws.

The companies subject to registration are liable to pay tax to the Tax Administration for their taxable emissions.

The company must be registered at www.virk.dk to obtain a registration in Erhvervssystemet (Business system). The Tax Administration issues a certificate of registration. Companies can access their registration at

www.virk.dk. Therefore, there is no issuing of a physical certificate.

A company registered in Erhvervssystemet must declare the tax for each tax period via the TastSelv Erhverv (Self-Key Business) web portal. Failure to make a declaration means that the Tax Administration will make a provisional determination. The company shall pay a fee of DKK 800 for a provisional determination, cf. Section 4 of the Tax Collection Act. The Tax Administration also checks and verifies the declaration.

The company must pay tax via the tax account and, in the event of non-payment, the claim is sent to the arrears recovery authority.

3.2.4. Calculation of the tax

It is proposed that the emissions tax should be calculated in accordance with the approved emissions report drawn up under the trading scheme.

The regulation of monitoring and reporting for stationary installations and aviation is set out in the MR Regulation.

The regulation of monitoring and reporting for maritime transport is set out in the MRV Regulation. The latest amendment to Council Regulation (EU) 2023/957 of the European Parliament and of the Council of 10 May 2023 amending Regulation (EU) 2015/757 enables the inclusion of maritime transport activities in the EU emissions trading system and the monitoring, reporting and verification of emissions of additional greenhouse gases and emissions from additional ship types.

According to the regulations, emissions can be calculated in different ways. Therefore, recognised measurement methods and calculation methods have been established to determine trading emissions.

Both regulations require the calculation of emissions from a company to be made on the basis of an approved monitoring plan and the emissions report must be verified by an accredited verifier. The verified emissions report must then be submitted to the Danish Energy Agency, which supervises the trading scheme. The verified emissions are set out in the emissions report, which forms the basis for the obligation to surrender allowances. Therefore, the emissions report, which the registered companies draw up and submit annually to the Danish Energy Agency as a result of obligations laid down in the CO_2 Allowances Act, is in principle used to calculate the taxable quantity.

Emissions stored in accordance with Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, Directive 2000/60/EC of the European Parliament and of the Council, 2006/12/EC, 2001/80/EC, 2004/35/EC, 2008/1/EC and Regulation (EC) No 1031/2006 shall not be counted as emissions subject to surrender within the meaning of Article 12(3a) of the Emissions Trading Directive.

Furthermore, the Directive does not apply to the geological storage of CO_2 with a total intended storage capacity of less than 100 kilotonnes for research, development or testing of new products and processes. No tax is payable on emissions in respect of which allowances are not to be surrendered pursuant to Article 12(3)(a) of the Emissions Trading Directive.

For emissions from stationary installations, the emissions for which allowances are to be surrendered will be stated directly in the annual emissions report which the company must submit to the Danish Energy Agency by 31 March at the latest of each year. Emissions from sustainable biogas will be reflected in the emissions report, although no allowances have to be surrendered.

In the case of aviation and maritime transport, the emissions for which allowances are to be surrendered do not correspond to the taxable emissions, as the tax is limited to domestic ferry services and domestic aviation. There may also be cases where registered companies are not required to surrender to the Danish part of the EU allowance registry, even though they carry out domestic aviation or voyages in Denmark. In these cases, companies will have to submit emissions reports to another EU country and surrender allowances in the EU allowance registry in that Member State. There may also be cases where registered companies are required to surrender to the Danish EU allowance registry, but only for part of the emissions covered by the trading scheme. This is the case, for example, if a shipping company operates, in addition to domestic ferry services in Denmark, other trading voyages.

Moreover, the taxable quantity of emissions is not affected by any reductions in the companies' obligation to surrender allowances resulting from the phasing-in of allowance adjustments for, inter alia, maritime transport. In such cases, the full verified emissions subject to the tax shall be taken as the basis for calculating the tax.

3.2.4.1. Calculation of taxable emissions from stationary installations

It is proposed that the emissions tax for stationary installations should be calculated on the basis of the emissions report drawn up and approved in accordance with the Commission's MR Regulation.

The rules laid down in Chapter III of the MR Regulation are to be applied when calculating the taxable quantity of emissions from stationary installations. The operator shall use the same methodology (calculation-based or measurement-based) to calculate the quantity of taxable emissions used by the operator to calculate emissions from trading activities under the MR Regulation.

Since a lower tax rate is proposed for emissions from mineralogical processes, etc., emissions from these processes must be calculated separately from other emissions from the stationary installation. The lower tax also covers the non-energy related emissions from these processes.

3.2.4.2. Calculation of taxable emissions from domestic aviation

It is proposed that the emissions tax for domestic aviation be calculated on the basis of the emissions report drawn up and approved under the MR Regulation, including under Chapter IV.

Air carriers engaged in trading activities are required to submit an emissions report and surrender allowances to one EU country. This may be Denmark or another country, regardless of the fact that domestic aviation is performed in Denmark. Air carriers' emissions reports will also cover all trading flights, both domestic and international. The Commission shall issue annually an updated regulation listing aircraft operators covered by the Emissions Trading Directive, indicating the administering Member State for each aircraft operator, most recently with Commission Regulation (EU) 2022/455 of 14 March 2022.

In calculating the taxable quantity, air carriers shall use information on annual emissions and annual numbers of flights per aerodrome pair to be appended to the annual emissions report, cf. Section 2, No 13, of Annex X to the MR Regulation.

Air carriers which operate domestic flights but do not submit the annual emissions report to the Danish Energy Agency but to a competent authority in another country must register for tax with the Tax Administration and use the same calculation of the number of flights per aerodrome and emissions to be used for tax declaration purposes.

3.2.4.3. Calculation of taxable emissions from domestic ferry services

It is proposed that the emissions tax for domestic ferry services be calculated on the basis of the emissions report drawn up and approved under the MRV Regulation.

Shipping companies carrying out trading activities must submit an emissions report and surrender allowances to one EU country. This may be Denmark or another country, regardless of the fact that domestic voyages is carried out in Denmark. In addition, the shipping company's emissions reports will cover all trading voyages, both domestic and international.

In calculating the taxable quantity of emissions, shipping companies shall use information on emissions and voyages, which they are required to monitor under Article 9 of the Regulation.

Shipping companies which carry out domestic voyages but which do not submit the annual emissions report to the Danish Energy Agency but rather to a competent authority in another country shall register for tax and use the same calculation of the number of domestic voyages and emissions to be used for tax declaration purposes.

3.2.5. Declaration and settlement

It is proposed that the process for declaring and settling the emissions tax should follow the rules laid down in the Tax Collection Act.

The Tax Collection Act will therefore apply to registered and unregistered companies, even though they are required to do so under the Emissions Tax Act.

Registered companies will have to declare a provisional tax in accordance with Section 2, where the tax period is the month. A tax may be declared under both the proposed Section 2(1), which constitutes the general tax rate, and under Section 2(3), which constitutes the reduced tax rate for mineralogical processes, etc. The provisional tax shall, in principle, be calculated on the basis of the measurement of energy consumption or greenhouse gas emissions under Section 6, or the emissions in the preceding two calendar years, calculated in accordance with the rules in the Emissions Tax Act, cf. Section 5. In the case of companies which have not previously submitted emissions reports, the provisional tax must be calculated on the basis of the emissions in each tax period. In addition, when declaring the provisional tax, companies may take into account information which may be relevant to the calculation of emissions in the current calendar year. This may be, for example, a continuous breakdown of emissions from mineralogical processes, etc., and other taxable emissions.

When checking whether the provisional tax has been calculated in a reasonable manner, the Tax Administration may take account of factors such as prior emissions reports, changes to monitoring plans and actual energy consumption.

Registered companies will therefore have to declare and pay tax on the provisional quantity of taxable greenhouse gas emissions to the Tax Administration by no later than the 15th day of the month following the end of the tax period.

The trading scheme requires companies engaged in trading activities to submit an emissions report to the competent authority at the end of a calendar year.

Emissions reports under the trading scheme shall be submitted no later than 31 March of the year following the end of a calendar year for stationary installations and aviation and no later than 30 April of the year following the end of a calendar year for maritime transport.

It is proposed that registered companies should indicate, by no later than the 15th of the month following the end of the month in which they are required to submit an emissions report, any difference in the cumulative tax for the calendar year to which the emissions report relates, which has been declared and paid on an ongoing basis, and the final tax calculated in connection with the submission of the emissions report to be paid for the year. If there is no difference, the company shall indicate this.

The difference must therefore be declared no later than the month following the submission of the annual emis-

sions report to the competent authority. For stationary companies, the competent authority is the Danish Energy Agency. However, for aviation and maritime transport, the competent authority may instead be an authority in another EU country. However, the obligation shall apply irrespective of the competent authority of the country to which the emissions report is submitted.

Registered companies must therefore declare any difference to the Tax Administration by 15 May of each year in connection with the regular declaration for the month. For the purposes of settling the difference from a previous year, the tax rate shall apply from the calendar year to which the difference relates.

Interest on the tax claim, including any residual tax, shall become due at the time of the declaration under the Tax Collection Act.

The provisions of the Tax Collection Act will also apply to the collection of emissions tax. With the ancillary draft Act on restructuring energy and CO_2 taxes, it is therefore also proposed to include the Emissions Tax Act in Annex 1, List A of the Tax Collection Act.

3.2.6. Accounting provisions

It is proposed that companies which must or can register in accordance with the rules laid down in this draft Act should keep accounts of taxable emissions from their installations, domestic aviation and domestic maritime transport.

Companies are proposed to keep accounts in accordance with the general rules of the Accounting Act. The accounting provisions are proposed to be similar to those in the other excise duty laws.

3.2.7. Checks and penalties

It is proposed to establish control provisions that would be broadly equivalent to those in other tax legislation.

The Tax Administration must be able to carry out checks on compliance with the law by, inter alia, checking that registered companies declare and settle the tax correctly. The tax must be declared on the basis of information contained in the emissions report which registered companies are required to submit annually to a competent authority. In Denmark, the competent authority is the Danish Energy Agency. However, for aircraft and maritime operators, a competent authority in one EU country has been designated to which the report will be submitted. It may be in another country, even if the company has domestic maritime transport or domestic aviation activities in Denmark.

As a general rule, the annual emissions reports will contain the information necessary for controlling tax liability. However, to calculate the tax for certain sectors, it will be necessary for companies to be able to provide other evidence of the breakdown of taxable and non-taxable emissions. It will be necessary, for example, to be able to separate emissions from domestic aviation from those from international aviation, and domestic ferry services from other trading domestic maritime transport, etc. It will also be necessary to provide evidence of emissions resulting from mineralogical processes, etc., which have a lower tax rate than other emissions.

The Tax Administration will then be responsible for checking whether the emissions subject to the tax liability are correctly declared and settled.

The Tax Administration may, when verifying emissions from stationary installations, rely on the emissions reports. The Danish Energy Agency is competent to check that the information contained in the emissions reports is correct and calculated in accordance with the Monitoring Regulation for stationary installations and aviation. To check emissions from mineralogical processes, etc. and domestic aviation and domestic maritime transport, the Tax Administration may not rely on the emissions reports alone, but instead other documentation and accounting records which the registered company must be in possession of under the trading scheme and the Accounting Act may be used as a basis for control.

It is also proposed to establish penalties that follow the scheme used under other tax legislation. Infringements of this Act shall therefore be punishable by a fine or imprisonment of up to one year and six months, unless a higher penalty is required under Section 289 of the Criminal Code.

3.2.8. State aid reporting

The proposed lower emissions tax for mineralogical processes, etc. (mineralogical processes, metallurgical processes, chemical reduction and electrolysis) constitutes State aid in relation to the general tax rate under Section 2(1). This aid scheme is covered by the European Commission's Guidelines on State aid for climate, environmental protection and energy 2022 (2022/C 80/01), including the transparency requirement.

These guidelines stipulate an obligation for Member States to publish information on State aid. It is a condition for the application of the Guidelines that Member States publish a set of information on aid awards. For aid awards exceeding EUR 100 000, publication is required, inter alia, of the name of the beneficiary, the size of the company, the date on which the aid was awarded and the amount of aid. As regards aid in the form of tax advantages, the amount of aid shall be disclosed in ranges from EUR 0.5–1, 1–2, 2–5, 5–10, 10–30 and 30 million and above. This follows from Section 3.2.1.4 of the Commission's Guidelines.

Failure to comply with the transparency requirement means that the aid awarded does not comply with the Guidelines and the conditions for its approval and may therefore, in principle, be considered to constitute incompatible State aid.

It is a precondition for disclosure of information in the State aid register that the Tax Administration possesses

information on aid allocated in accordance with specific provisions of the various tax laws. At present, the reporting system is not designed in such a way that this information can be retrieved, so that companies need to report this data.

It is therefore proposed that companies which declare tax under Section 2(3) must report the value of the tax reduction to the Tax Administration if the amount exceeds EUR 100 000 in a calendar year. This will result in companies paying the lower tax in question being required to report to the Tax Administration the value of the aid they receive if it exceeds EUR 100 000 in a calendar year.

It is assumed that the Minister for Taxation shall lay down detailed rules on the reporting and publication of the information reported above and information on the company's name, type of company, CVR number, size and date of the allocation. The detailed rules on the reporting of such information are set out in Order No 1821 of 28 December 2023 on compliance with the rules for the award of State aid in tax matters. The Order will also be extended to the tax reduction for mineralogical processes, etc. under this Act.

It is also proposed that the Minister for Taxation shall lay down detailed rules stipulating that companies may not apply the tax rate set out in Section 2(3) if they do not meet the conditions for receiving State aid in force at any time. Companies that cannot apply the tax rate in Section 2(3) will be subject to the general tax rate in the proposed Section 2(1).

This will have the effect of authorising the Minister for Taxation to lay down detailed rules on compliance with the EU rules applicable at any time for the award of compatible State aid, which have an impact on the reduction of mineralogical processes, etc. The Minister for Taxation will then be able to specify in an order the conditions to be met for receiving State aid in the form of the lower tax rate for mineralogical processes, etc. under Section 2(3) of the proposed Emissions Tax Act, including that undertakings in difficulty may not avail themselves of the scheme.

The Minister for Taxation has laid down detailed rules for receiving State aid in Order No 1821 of 28 December 2023 on compliance with the rules for the award of State aid in tax matters pursuant to, inter alia, to Section 7(10), Section 7b(5), Section 9b(6) and Section 9c(11) of the CO_2 Tax Act. Therefore, the Order follows general rules on compliance with the rules for the award of State aid in tax matters. This includes rules on reporting through the TastSelv (E-tax) web portal, etc. and on the prohibition on granting aid to undertakings in difficulty. It is assumed that the detailed conditions for the award of State aid covered by the proposed Emissions Tax Act will be set out in the same Order.

3.2.9. Exchange of information

The Tax Administration will have to exchange information with the Danish Energy Agency, which receives emissions reports from companies with activities in stationary installations in Denmark, as well as from shipping companies and aircraft operators who surrender allowances to the Danish Energy Agency.

A data exchange agreement will therefore be concluded between the Tax Administration and the Danish Energy Agency.

4. Implications for the achievement of the UN Sustainable Development Goals

The draft acts are deemed to support the UN Sustainable Development Goals, Target 7.2 on substantially increasing the share of renewable energy in the global energy mix by 2030, and for climate action, Target 13.2 on integrating climate measures into national policies. Reference is made to point 9 on climate impact.

5. Economic and implementation impact on the public sector

5.1. Economic impact on the public sector

The economic impact of the draft Act on the public sector has been assessed together with the ancillary draft Act on the implementation of the Green Tax Reform Agreement, etc.

Overall, the drafts are estimated to generate an immediate additional revenue of DKK 725 million in 2025, rising to around DKK 2 050 million in 2030, cf. Table 1. After static revenue change and revenue change from behavioural responses, the additional revenue is estimated to be around DKK 900 million in 2030.

Behavioural responses are estimated to be affected as early as 2023 as a result of the Green Tax Reform Agreement, etc. concluded in 2022. The agreed higher taxation of CO_2 emissions from 2025 is estimated to reduce taxed energy consumption already from 2023, corresponding to a lower revenue of around DKK 25 million in 2023 and 2024, cf. Table 1.

In terms of lasting impact, the impact after static revenue change and revenue change from behavioural responses is, with significant uncertainty, estimated to be around DKK 375 million. Although taxes are indexed, the lasting impact is smaller than the revenue in 2030, as the base is estimated to be declining over time.

Table 1. Revenue impact of tax changes by the Green Tax Reform Agreement, etc.

DKK million at 2022 levels	2023	2024	2025	2026	2027	2028	2029	2030	Permanent
Direct impact	-	-	725	1,075	1,400	1 675	1 875	2,050	825
Impact after static revenue change	-	-	525	800	1,025	1,250	1,400	1 525	600
Impact after static revenue change and revenue change from behavioural responses	-25	-25	425	600	750	850	875	900	375

Note: The calculations have been performed on the same model and base as used for the conclusion of the Green Tax Reform Agreement, etc. They have been rounded to the whole DKK 25 million.

In 2030, the additional revenue is approximately DKK 0.9 billion after static revenue change and revenue change from behavioural responses. The revenue impact covers two opposing effects. There is an additional revenue of approximately DKK 1.1 billion after static revenue change and revenue change from behavioural responses in 2030 due to the broadening of the base and higher tax level of CO2 taxation. The abolition of the basic allowance in the CO2 tax is estimated to result in an additional revenue of approximately DKK 50 million. In addition, there is a lower revenue of approximately DKK 0.2 billion after revenue change from behavioural response as a result of the restructuring of taxes on space heating, etc. The restructuring of space heating is neutral for natural gas, but increases taxation for oil, coal and fossil waste. For biogenic waste, taxation is reduced, leading to an overall reduction in space heating, etc.

The calculation of the revenue impact has been calculated with great uncertainty. There are significant increases in taxes on a number of different bases, with effects going beyond the field of experience. In addition, there are uncertainties arising from developments in fuel prices, allowance prices, projections of the tax base, etc. Calculation of the agreed transition aid and subsidies for the capture and storage of CO_2 (CCS) may also affect the tax base.

The draft acts are expected to reduce labour supply by around 200 full-time equivalents, while the Gini coefficient is not estimated to be affected, cf. Table 2. The socio-economic impact is estimated at around DKK 700 million. An estimated CO_2 reduction of approximately 2.6 million tonnes $_{CO2,}$ resulting in an estimated shadow price of approximately DKK 275 per tonne of CO_2.

Table 2. Effects of tax changes to the *Green Tax Reform Agreement, etc.*

2030 (2022 levels)	Immediate impact	Impact after static revenue	Labour supply	Change in Gini coefficient	Social CO_2 reduction economic		Shadow
	DKK million	DKK million	Full-time equivalents	% points	DKK million	million tonne CO_2	DKK/tonne CO_2
Effects of draft acts		2,050	900	-200	0	-700	2.6 275

Note: The calculations have been performed using the same model and base as used for the conclusion of the Green Tax Reform Agreement, etc. The socio-economic impact has been rounded to the nearest DKK 100 million, while the revenue impact is rounded to the nearest DKK 25 million. It has been rounded to a whole 100 full-time equivalents. Finally, it has been rounded to 25 million tonnes of CO_2 and DKK 25 million per tonne of CO_2. When calculating distributional effects, full static revenue change of the share of the public sector is assumed, which implies, inter alia, that public consumption does not affect the Gini coefficient. The shadow price is calculated in factor costs.

With the implementation of the Green Tax Reform Agreement, etc., energy taxes are targeted more at CO_2 taxation from 2025 onwards. Tax expenses in this area is therefore estimated to be a deviation from CO_2 taxation in legislation. This means that the tax expense relating to tax exemptions and reductions in respect of ferries, aircraft, agriculture, etc. is eliminated. Similarly, it is proposed that the basic allowance in the CO_2 Tax Act should be abolished by the ancillary draft Act. It reduces tax expenses by around DKK 2.5 billion. Similarly, it is estimated that the tax exemption for biomass will be eliminated as a tax expense, reducing tax expenses by around DKK 5.6 billion.

The agreement introduces a reduced CO_2e tax for trading mineralogical processes, etc., which are subject to a tax rate of DKK 125 per tonne of CO_2e versus the general rate of DKK 375 per tonne of CO_2e. The reduced rate is estimated to represent a new tax expense DKK 0.6 billion (with uncertainty) until the fully phased-in taxes in 2030.

The draft Act is not deemed to have any economic impact on municipalities and regions.

5.2. Implementation impact on the public sector

The draft Act, taken in isolation, is estimated to entail administrative costs for the Tax Administration of DKK 0.3 million in 2024, DKK 1.2 million in 2025, DKK 0.5 million annually in 2026-2029 and DKK 0.4 million on a permanent basis for control, guidance and system adjustment.

It is a prerequisite that a data agreement be concluded with the Danish Energy Agency, which is competent to check emissions reports, etc. The Danish Tax Agency may in some cases use data provided by the Danish Energy Agency as a basis for control.

The emissions tax will in principle be calculated on the basis of the emissions report already drawn up and verified, which is submitted to the Danish Energy Agency under the trading scheme.

The draft Act is not considered to have any implementation impact on municipalities and regions.

6. Economic and administrative impact on the business sector, etc.

6.1. Economic impact on the business sector, etc.

The economic impact of the draft Act on the business sector has been assessed together with the ancillary draft Act on the implementation of the Green Tax Reform Agreement, etc.

The burden imposed by the draft Act covers two opposing effects, where the broadening of the base and the higher tax level of CO_2 taxation increase the burden, while the restructuring of taxes on space heating, etc. is to a lesser extent estimated to lead to a reduced burden.

Overall, the drafts are estimated to lead to an increased burden on business of around DKK 825 million in 2025, rising to around DKK 2 250 million in 2030. For households, the burden is estimated to be reduced by around DKK 100 million in 2025, rising to around DKK 175 million in 2030.

6.2. Administrative impact on the business sector, etc.

The administrative impact of the draft Act on the business sector, etc. have been assessed together with the ancillary draft Act on the implementation of the Green Tax Reform Agreement, etc.

On the basis of information provided by the Ministry of Taxation (and with considerable uncertainty), the Danish Business Authority has calculated the administrative impact on the business sector during implementation at around DKK 30 million in current costs and around DKK 2 million in transition.

Therefore, an SCM measurement needs to be carried out in order to quantify the costs further. The results of the measurement will be sent to the Tax Committee as part of examining the draft Act.

The administrative costs arise, inter alia, from the fact that trading companies operating in the aviation and maritime sectors, if they run domestic transport services, will be able to apply for a reimbursement of the CO_2 tax, and that companies with non-trading process purposes can apply for a reimbursement of the energy tax for uses and fuels for which CO_2 tax is paid. This declaration could also lead to administrative transition costs.

The draft Act also makes the administrative burden easier for companies. These easier procedures mean, inter alia, that companies, including ferries and fishermen, which are subject to the tax, will not have to apply for a licence from the Tax Administration to receive fuel tax-free. And companies subject to the tax will not have to apply for reimbursement.

Innovations- og iværksættertjekket (the Innovation and Entrepreneurship Check) is not considered relevant to this draft Act.

7. Administrative impact on citizens

The draft Act is considered to have no administrative impact on citizens.

8. Climate impact

The climate impact of the draft Act has been assessed together with the ancillary draft Act on the implementation of the Green Tax Reform Agreement, etc.

Overall, the drafts are estimated to result in a reduction in emissions of approximately 1.3 million tonnes of CO_2 in 2025, rising to around 2.6 million tonnes of CO_2 in 2030. The impact is a reduction of approximately 2.5 million tonnes of CO_2 due to the broadening of the base and higher tax level of CO_2 taxation and a reduction of approximately 0.1 million tonnes of CO_2 as a result of the restructuring of taxes on space heating, etc.

Following the conclusion of the agreement, two adjustments have been made. A higher rate than assumed for trading general process purposes and horticulture, resulting in reduced CO_2 emissions of approximately 0.02 million tonnes of CO_2 in 2030. In addition, there is an increase in emissions of approximately 0.02 million tonnes of CO_2 in 2030 due to a lower rate for domestic maritime transport. The effects of these two adjustments are therefore counterbalanced. The adjustment for domestic maritime transport must be seen in the light of the extension of the trading scheme, which is estimated to result in a reduction of approximately 0.08 million tonnes of CO_2 in 2030.

9. Impact on the environment and nature

The draft Act is not expected to have any impact on the environment or nature.

10. Relationship to EU law

10.1. Reduced tax for mineralogical processes, etc. in the Emissions Tax Act

It follows from the draft Act that a general tax rate of DKK 375 per tonne of CO_2 should apply in the Emissions Tax Act and a reduced tax rate of DKK 125 per tonne of CO_2 for mineralogical processes, etc. Such relief constitutes State aid within the meaning of Article 107 TFEU, which must be notified to the Commission pursuant to Article 108 TFEU, and in application of the Commission's Guidelines on State aid for climate, environmental protection and energy 2022 (2022/C 80/01), as amended.

State aid fulfilling the conditions of Article 107 TFEU – that is to say, aid granted through State resources and which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods – is, in principle, incompatible with the internal market. If the Commission finds that the aid is incompatible with the internal market, it will decide that the aid measure must be abolished. It may also be decided that the aid must be repaid by the companies that received it.

State aid must therefore, in principle, be notified to and authorised by the Commission, unless it falls within the scope of the General Block Exemption Regulation (Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, as amended). However, the proposed scheme is considered not to fall within the scope of this Regulation and is therefore subject to the notification procedure laid down in Article 108 TFEU.

It follows from Article 108(3) TFEU that Member States may not implement such measures until the Commission has decided that the measure constitutes compatible State aid, known as a 'standstill obligation'. This means that the low rate for mineralogical processes, etc. cannot be applied until the Commission has decided that the scheme is not incompatible with the internal market under Article 107 TFEU.

It therefore follows from Section 14(2) of the draft Act that the Minister for Taxation shall determine the date of entry into force of Sections 2(3–6) and 6(6) and (5) of the Act. It is envisaged in the Green Tax Reform Agreement, etc. that the Act will enter into force on 1 January 2025, although it also states that the initiatives must be implemented in accordance with obligations under EU law. The entry into force of Sections 2(3–6) and 6(6) and (5) shall be subject to prior approval by the Commission of the lower tax rate for mineralogical processes, etc.

It also follows from Section 2(5) of the draft Act that companies must report the value of the tax reduction to the Tax Administration if the amount exceeds EUR 100 000 in a calendar year. It follows from Section 2(6) of the draft Act that the Minister shall lay down detailed rules on the reporting and publication of information reported under paragraph 5 and that companies may not apply the tax rate in Section 2(3) if they do not meet the conditions for receiving State aid in force at any time, see, in this regard, point 3.1.2.8 and the comments to Section 2(5) and (6). These rules are intended to ensure that Denmark complies with the Commission's requirements for aid schemes and that the Commission can approve the lower rate for mineralogical processes, etc.

10.2 Notification in accordance with the Information Procedure Directive

This Act been notified as a draft in accordance with Directive 2015/1535/EU of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services. This is a tax-related measure and is therefore not subject to a standstill period.

11. Consulted government authorities/agencies and organisations, etc.

In the period from 9 February 2024 to 8 March 2024 (28 days), a draft Act was submitted for consultation with the following authorities and organisations, etc.:

Advokatsamfundet (Danish Bar Association), Affald Plus, Akademikerne, Aluminium Danmark, Arbejder-

bevægelsens Erhvervsråd (Economic Council of the Labour Movement), ARI (Affalds-og ressourceindustrien under DI), Biobrændselsforeningen, Blik-og Rørarbejderforbundet, Borger- og retssikkerhedschefen i Skatteforvaltningen (The Danish Tax Agency's Director of Legal Protection), Brancheforeningen for Decentral Kraftvarme, Brancheforeningen for Flaskegenbrug, Brancheforeningen for Husstandsvindmøller, Brancheforeningen for Skov, Have og Park-Forretninger, Brintbranchen, Bryggeriforeningen (Danish Brewers' Association), Business Danmark, CEPOS, Cevea, DAKOFA, Danmarks Fiskeriforening, Danmarks Frie Autocampere, Danmarks Jordbrugsforskning, Danmarks Naturfredningsforening (The Danish Society for Nature Conservation), Danmarks Skibskredit (Danish Ship Finance), Dansk Affaldsforening, Dansk Erhverv (Danish Chamber of Commerce), Dansk Fjernvarme (Danish District Heating Association), Dansk Gartneri (Danish Horticulture), Dansk Gasteknisk Center, Dansk Landbrugsrådgivning, Dansk Maskinhandlerforening (The Association of Danish Agricultural Machinery Dealers), Dansk Metal (Danish Metal Workers' Union), Dansk Methanolforening, Dansk Offshore, Dansk Retursystem A/S, Dansk Skovforening (The Danish Forest Association), Dansk Solcelleforening (Danish PV Association), Dansk Told- og Skatteforbund, Danske Advokater (The Association of Danish Law Firms), Danske Energiforbrugere (DENFO), Danske Halmleverandører, Danske Rederier, DANVA, Dataetisk Råd (the Data Ethics Council), Datatilsynet (the Danish Data Protection Agency), Det Økologiske Råd, DI, DI Transport (Danish Transport Federation), Digitaliseringsstyrelsen (Danish Agency for Digital Government), Drivkraft Danmark, Eksportrådet, EmballageIndustrien, Energi Danmark, Energinet.dk, Energistyrelsen (the Danish Energy Agency), Energitilsynet, Erhvervsstyrelsen – Område for Bedre Regulering (OBR) (Erhvervsstyrelsen – Område for Bedre Regulering (OBR) (The Danish Business Authority, Area for Better Regulation), FH - Fagbevægelsens Hovedorganisation (Danish Trade Union Confederation), Finans Danmark (Finance Denmark), Finansforbundet, Forbrugerrådet Tænk (the Danish Consumer Council), Foreningen af Danske Skatteankenævn, Foreningen af Rådgivende Ingeniører (the Danish Association of Consulting Engineers), Foreningen Biogasbranchen, Foreningen Danske Kraftvarmeværker, Foreningen Danske Revisorer, Forsikring & Pension (Insurance and Pension Denmark), Forsikringsmæglerforeningen, Frie Funktionærer FSR - danske revisorer (FSR - Danish Auditors), GAFSAM, GRA-KOM (erhvervs- og arbejdsgiverorganisation inden for grafisk kommunikation, medier og markedsføring), Greenpeace Danmark (Greenpeace Denmark), Green Power Denmark, HK-Kommunal, HK-Privat, HOFOR, HORESTA, Investering Danmark, Justitia, Kapitalmarked Danmark, KL, Konkurrence- og Forbrugerstyrelsen (Danish Competition and Consumer Authority), Kraka, Kræftens Bekæmpelse (the Danish Cancer Society), Landbrug & Fødevarer (Danish Agriculture & Food Council), Landsforeningen for Bæredygtigt Landbrug, Landsforeningen Polio-, Trafik- og Ulykkesskadede (The Danish Society of Polio and Accident Victims), Landsskatteretten (the National Tax Tribunal), Lederne Søfart, Ledernes Hovedorganisation (Danish Association of Managers), Lokale Pengeinstitutter (The Association of Local Banks, Savings Banks and Cooperative Banks in Denmark), Mellemfolkeligt Samvirke (ActionAid Denmark), Miljøstyrelsen (Danish Environmental Protection Agency), Mineralolie Brancheforeningen, Nasdaq OMX Copenhagen A/S, Nationalbanken, Nationalt Center for Miljø og Energi (Danish Centre for Environment and Energy), Naturstyrelsen (the Danish Nature Agency), Noah, Nordisk Folkecenter for Vedvarende Energi (Nordic Folkecenter for Renewable Energy), Nærbutikkernes Landsforening, Ox-fam IBIS, Plastindustrien, Rejsearbejdere.dk, Rejsearrangører i Danmark, Restaurationsbranchen.dk, SEGES Innovation P/S, Serviceforbundet, Sikkerhedsstyrelsen (Danish Safety Technology Authority), SKAD – Autoskade- og Køretøjsopbyggerbranchen i Danmark, Skatteankeforvaltningen, SMVdanmark, SRF Skattefaglig Forening, Søfartsstyrelsen (Danish Maritime Authority), Vedvarende Energi, VELTEK, Vin og Spiritus Organisationen i Danmark (Wine & Spirits Denmark), Vindmølleindustrien, VisitDenmark, WWF, Ældre Sagen (DaneAge Association), Økonomistyrelsen (Agency for Public Finance and Management - Ministry of Finance) and

Økologisk Landsforening (Organic Denmark).

12. Summary table

	Positive impact/lower expenditure (if 'yes', please specify extent/if 'no', enter 'None')	Negative impact/higher expenditure (if 'yes', please specify scope/if 'no', enter 'None')
Economic impact on the State, municipalities and regions	The economic impact of the draft Act on the public sector has been assessed together with the ancillary draft Act on the implementation of the Green Tax Reform Agreement, etc. Overall, the draft acts are estimated to generate an immediate additional revenue of approximately DKK 725 million in 2025, rising to around DKK 2 050 million in 2030. After static revenue change and revenue change from behavioural responses, the additional revenue is estimated to be around DKK 900 million in 2030. On a permanent basis, the impact on static revenue change and revenue change from behavioural responses is estimated to be approximately DKK 375 million.	None.
Implementation impact on the State, municipalities, and regions	None.	The draft Act, taken in isolation, is estimated to entail administrative costs for the Tax Administration of DKK 0.3 million in 2024, DKK 1.2 million in 2025, DKK 0.5 million annually in 2026-2029 and DKK 0.4 million on a permanent basis for control, guidance and system adjustment.
Economic impact on the business sector, etc.	None.	The economic impact of the draft Act on the business sector has been assessed together with the ancillary draft Act on the implementation of the Green Tax Reform Agreement, etc. The burden of the draft Act covers two opposing effects, where the broadening of the base and the higher tax level of CO_2 taxation increase the burden, while the restructuring of taxes on space heating, etc. is to a lesser extent estimated to lead to a reduced burden. Overall, the draft acts are estimated to lead to an increased burden on business of around DKK 825 million in 2025, rising to around DKK 2 250 million in 2030. For households, the burden is estimated to be reduced by around DKK 100 million in 2025, rising to around DKK 175 million in 2030.

Administrative impact on trade and industry, etc.	None.	The administrative impact of the draft Act on the business sector, etc. have been assessed together with the ancillary draft Act on the implementation of the Green Tax Reform Agreement, etc. On the basis of information provided by the Ministry of Taxation (and with considerable uncertainty), the Danish Business Authority has calculated the administrative impact on the business sector during implementation at around DKK 30 million in current costs and around DKK 2 million in transition. Therefore, an SCM measurement needs to be carried out in order to quantify the costs further.
Administrative impact on citizens	None.	None.
Climate impact	The climate impact of the draft Act has been assessed together with the ancillary draft Act on the implementation of the Green Tax Reform Agreement, etc. Overall, the draft Act is estimated to lead to a reduction in emissions of approximately 1.3 million tonnes of CO_2 in 2025, rising to around 2.6 million tonnes CO_2 in 2030.	None.
Impact on the environment and nature	None.	None.
Relationship to EU law	It follows from the draft Act that a general tax rate of DKK 375 per tonne of CO_2 should apply in the Emissions Tax Act and a reduced tax rate of DKK 125 per tonne of CO_2 for mineralogical processes, etc. Such relief constitutes State aid within the meaning of Article 107 TFEU, which must be notified to the Commission pursuant to Article 108 TFEU, and in application of the Commission's Guidelines on State aid for climate, environmental protection and energy 2022 (2022/C 80/01), as amended. Therefore the entry into force of Section 2(3–6) and Section 6(5) and (6) requires prior approval by the Commission of the low tax rate for mineralogical processes, etc. It follows from the proposed entry into force provision that the Minister determines the date of entry into force of Sections 2(3–6) and 6(6) and (5) of the Act. The political agreement envisages that the draft Act will enter into force on 1 January 2025. This Act been notified as a draft in accordance with Directive 2015/1535/EU of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services. This is a tax-related measure and is therefore not subject to a standstill period.	
It contradicts the five principles for the implementation of EU business regulation (which also apply, where appropriate, to the	YES NO	

implementation of non-business EU regulation) (insert X)	

Explanatory notes on the individual provisions of the draft Act

Re Section 1

There is currently no emissions tax. It is therefore proposed to introduce an Emissions Tax Act.

It is proposed in *paragraph 1* that a tax is paid to the State Treasury in accordance with the provisions of this Act on the emissions of greenhouse gases from activities in Denmark, including the territorial sea and Denmark's exclusive economic zone covered by Annex 1 to the Act, for which allowances must be surrendered under the trading scheme, without prejudice to paragraphs 2–4.

As a result, greenhouse gas emissions from activities covered by Annex I to the Directive of the European Parliament and of the Council establishing a system for greenhouse gas emission allowance trading within the Union (hereinafter 'the Emissions Trading Directive') will be taxed in Denmark. It is proposed that Annex I to the Emissions Trading Directive should be inserted as Annex 1 to the Act. The tax liability covers all activities which are currently part of the ETS I allowance trading system and which take place in Denmark.

However, based on the draft of Section 1(2), the tax liability is proposed to be limited, so that the tax liability for flights is limited to domestic aviation and maritime transport is limited to domestic ferry services.

The geographical scope is limited to Denmark, including the territorial sea and Denmark's exclusive economic zone. The emissions tax is therefore payable on emissions from Denmark, including Danish land and territorial sea and Denmark's exclusive economic zone. The territorial sea is made up of external and internal waters. The width of the Danish external waters is 12 nautical miles (22 224 km). The Danish delimitation of the territorial sea is laid down in Act No 200 of 7 April 1999 on the delimitation of the territorial sea.

Within the exclusive economic zone, the coastal State has exclusive rights to explore and exploit the natural resources of the seabed and its subsoil, as well as to engage in any other economic exploitation. Furthermore, environmental jurisdiction can be enforced within the zone. The exclusive economic zone may extend to a maximum of 200 nautical miles (approximately 370 km) from the baseline. The regulation of the Danish exclusive economic zone is governed by Act No 411 of 22 May 1996 on exclusive economic zones and has been further implemented, inter alia, by Order No 1662 of 17 November 2020 on Denmark's exclusive economic zone.

The proposed geographical scope corresponds to that covered by the CO_2 Allowances Act, cf. Section 1 of the CO_2 Allowances Act, however, limited to the taxation of emissions in Denmark, including the territorial sea and Denmark's exclusive economic zone.

The Emissions Trading Directive imposes an obligation on companies to surrender allowances for certain greenhouse gas emissions resulting from an activity covered by Annex I (ETS 1) or III (ETS 2) of the Directive. An allowance shall be surrendered per tonne of CO_2e emitted to the competent authority of the Member State responsible for ensuring that allowances are surrendered by companies. In Denmark, the Danish Business Authority is the competent authority. The allowances are sold on a market for these allowances and therefore have an economic value. The free allocation of allowances under Article 10a–10c of the Emissions Trading Directive is being phased out.

Annex I to the Emissions Trading Directive covers both energy and non-energy related emissions from stationary production installations of a certain capacity, certain flights and, with the latest extension, also certain maritime transport activities with ships above 5 000 gross tonnage (ETS 1).

The Directive has been extended in 2023 by a Chapter IVa and Annex III covering energy-related emissions from transport, buildings and minor processes. These emissions will be covered by the new trading scheme under the Emissions Trading Directive (ETS 2), which will enter into force on 1 January 2027.

This draft Act proposes to levy only a tax on emissions from activities which is reproduced in Annex I to the Act. This means that the Act imposes a tax only on activities covered by ETS 1, i.e. Annex I to the Emissions Trading Directive. By contrast, the draft Act does not cover activities covered by Annex III to the Emissions Trading Directive, i.e. ETS 2.

Allowances must be surrendered for emissions of greenhouse gases resulting from activities listed in Annex I to the Emissions Trading Directive. Annex II to the Emissions Trading Directive states that emissions of carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O) hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF_6) are covered by the trading scheme where these stem from activities listed in Annex I to the Directive.

Trading companies carrying out activities in Denmark must quantify their emissions and must submit an annual emissions report to a competent authority. The emissions report shall be verified by an accredited verifier. Finally, on the basis of the emissions report, the company surrenders allowances. Companies that have to submit an emissions report to the Danish Energy Agency shall surrender allowances to the Danish part of the EU allowance registry, which is administered in Denmark by the Danish Business Authority.

Trading activities covered by Annex I to the Emissions Trading Directive essentially include activities in stationary production units, aviation and maritime transport within the meaning of Article 3a of the Emissions Trading Directive and activities which have a substantial technical connection with such activities, cf. Article 3h of the Emissions Trading Directive. The Danish Energy Agency is competent to determine which installations are covered by the trading scheme.

Trading activities in stationary production units or activities which have a significant technical connection with such activities are exhaustively listed in Annex I to the Emissions Trading Directive, which is reproduced in Annex 1 to the Act. Stationary production units are units which, except during transport, are not moved from the place where they carry out production. Emissions from stationary installations include activities in Denmark, including the territorial sea and Denmark's exclusive economic zone. This includes, inter alia, production units of offshore installations used for the extraction of hydrocarbons, including in the territorial sea and in the exclusive economic zone. It also includes floating installations for the production of hydrocarbons, which are placed in a fixed position for production. Stationary installations therefore do not include means of transport.

Annex I to the Emissions Trading Directive does not include, inter alia, production units or parts of production units used for research, development and testing of new products. Production units or parts of production units exclusively using biomass are not either subject to the allowance surrender obligation.

Aviation activities covered by the Emissions Trading Directive are specified in its Annex I and cover flights between two aerodromes located in two different States listed in the implementing act adopted pursuant to Article 25a(3) and certain other listed international flights.

It follows, inter alia, that the aircraft operator must hold an AOC (air operator certificate for carrying out commercial air transport operations) and that the operator must produce CO_2 emissions exceeding 10 000 tonnes per year for the use of an aircraft with a maximum certified take-off mass exceeding 5 700 kg performing flights covered by Annex I, other than those departing and arriving in the same Member State, including outermost regions of the same Member State. However, emissions from certain specified types of flights are excluded from the calculation of the 10 000 tonnes per year.

The Directive also covers flights which depart from or arrive at an aerodrome located in the territory of a Member State to which the Treaty applies, with a number of exceptions for, inter alia, training flights, military flights, search and rescue flights, as well as a number of other special exceptions listed in Annex I.

Shipping companies have been subject to the obligation to surrender allowances for maritime emissions by Directive (EU) 2023/959 of the European Parliament and of the Council of 10 May 2023 amending Directive 2003/87/EC establishing a system for greenhouse gas emission allowance trading within the Union and Decision (EU) 2015/1814 concerning the establishment and operation of a market stability reserve for the Union greenhouse gas emission trading system. Maritime transport activities subject to this obligation also follow from Annex I to the Emissions Trading Directive, cf. Annex 1 to the draft Act. Maritime activities are listed here as those covered by Article 2(1) of Regulation (EU) 2015/757 and, as of 1 January 2027, also those covered by Article 2(1)(b) of that Regulation.

Article 2(1) of the Regulation covers ships of 5 000 gross tonnage and above in respect of the greenhouse gas emissions released during their voyages for transporting for commercial purposes cargo or passengers from such ships' last port of call to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within ports of call under the jurisdiction of a Member State.

Article 2(1b) of the Regulation covers offshore ships of 5 000 gross tonnage and above in respect of the greenhouse gas emissions released during their voyages from their last port of call to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within ports of call under the jurisdiction of a Member State. This type of ship does not operate ferry services and therefore greenhouse gas emissions from their activities will not be subject to the proposed tax.

In addition, the Regulation does not cover warships, naval auxiliaries, fish-catching or fish-processing ships, wooden ships of a primitive build, ships not propelled by mechanical means, or government ships used for non-commercial purposes, cf. Article 2(2).

Trading maritime transport shall surrender allowances for CO_2 emitted from 2024. From 2026, trading maritime transport shall also surrender allowances for emissions of methane (CH_4) and nitrous oxide (N_2O).

The surrender obligation under the Emissions Trading Directive is phased in for maritime transport, so that allowances have to be surrendered for 40 % of the verified

emissions for 2024, 70 % of the verified emissions for 2025 and 100 % of the verified emissions from 2026. This phase-in is handled in relation to the tax in the proposed Section 1(4).

Article 12(3)(d) of the Emissions Trading Directive allows shipping companies to be exempted from the allowance obligation for emissions emitted up to and including 31 December 2030 from voyages performed on passenger ships other than cruise ships and with ro-ro passenger ships between a port on an island under the jurisdiction of the Member State without any road or railway connection with the mainland and with a population of less than 200 000 permanent residents according to the latest best available data in 2022 and a port under the jurisdiction of the same Member State and from the activities of such ships in a port in connection with such activities. This exemption is applied in Denmark in respect of the Rønne-Køge ferry service, which is therefore subject to allowance obligations only from 1 January 2031. As a result, emissions from these activities, for which the exemption has been applied, will not be subject to the proposed tax liability until 1 January 2031.

Around eight companies are expected to surrender domestic aviation allowances to Denmark in 2025. In addition, there may be other air carriers which are subject to an allowance obligation for domestic aviation in Denmark, which have to surrender allowances to other countries but will also be subject to the tax liability.

In 2024, three ferry connections, Hou-Sælvig, Sjællands Odde-Aarhus and Sjællands Odde-Ebeltoft are expected to surrender allowances for domestic maritime transport. In addition, container vessels, etc. of more than 5 000 tonnage will be covered by the trading scheme but exempt from the tax liability, cf. the proposed paragraph 3.

Rules on the tax period and the methodology for calculating emissions from these activities are laid down in Sections 5–6 of the draft Act. Reference is made to the comments on these provisions.

The extension of the scope of the Emissions Trading Directive to road transport, construction and other processes (ETS 2) is reflected in Chapter IVa and Annex III of the Directive. There is not yet an obligation to surrender allowances for greenhouse gas emissions from these activities. The Act does not cover these sectors.

It is proposed in *paragraph 2, first sentence,* that only flights covered by paragraph 1 are taxed if they begin and end in Denmark, including the territorial sea and Denmark's exclusive economic zone, and are covered by Annex 1 to the Act (domestic aviation).

This will result in a tax under this Act being paid on emissions from trading domestic aviation and trading domestic ferry services.

This will mean for aviation that only trading flights within Denmark are subject to the tax liability under the Emissions Tax Act.

For a description of which flights are covered by the trading scheme, reference is made to the comments on Section 1(1). Domestic aviation means flights which begin and end within the geographical scope of the Act as proposed in Section 1(1). In addition, domestic flights do not mean flights starting or ending in the Faroe Islands or Greenland.

Eight companies are expected to surrender domestic aviation allowances to Denmark in 2025. In addition, there may be other air carriers subject to an allowance obligation for domestic aviation, which have to surrender allowances to other countries, but will also be subject to the tax liability under the Emissions Tax Act.

It is proposed in *paragraph 2, second sentence,* that a tax is paid for ferry routes covered by paragraph 1 only if they begin and end in a Danish port or platform and are covered by Annex 1 to the Act (domestic ferry services).

For maritime transport, this will mean that only trading ferry services within Denmark are subject to the tax under the Emissions Tax Act. Maritime transport is covered by the trading scheme when the voyage is carried out with a vessel of 5 000 gross tonnage or more.

Furthermore, domestic ferry services do not mean ferry services starting or ending in the Faroe Islands or Greenland.

In 2024, three ferry connections, Hou-Sælvig, Sjællands Odde-Aarhus and Sjællands Odde-Ebeltoft are expected to surrender allowances for domestic ferry services and will therefore be subject to the proposed tax.

It is proposed in *paragraph 3* for activities where the Emissions Trading Directive stipulates a gradual phase-in for surrendering allowances, that the tax is paid on the quantity of allowances corresponding to actual emissions during that period, irrespective of the phasing-in of the surrender obligation.

This will result in a tax being paid on the actual CO_2 emissions from a trading activity. The special phasing-in model for surrendering allowances for maritime transport in Article 3gb of the Emissions Trading Directive will therefore have no impact on the tax base, which will at all times be 100 % of the verified emissions that will have to be included in the company's emissions report.

Therefore, the phasing-in of the surrender obligation will not affect the tax liability under the Emissions Tax Act.

It is proposed in *paragraph 4* that emissions from sustainable biogas, which are exempt from the obligation to surrender allowances, are subject to tax on the emissions, irrespective of the allowance exemption.

Consequently, emissions from sustainable biogas will be taxable regardless of whether companies have purchased guarantees of origin for these emissions and will therefore be exempt from the obligation to surrender allowances. Emissions from sustainable biogas are reported in the emissions report, which is verified and checked under the trading scheme.

Reference is also made to point 3.2.1 of the general comments on the draft Act.

Re Section 2

It is proposed in *paragraph 1* that the tax amounts to DKK 71.2 in 2025, DKK 128.1 in 2026, DKK 185.0 in 2027, DKK 241.9 in 2028, DKK 298.8 in 2029 and DKK 355.8 from 1 January 2030 (2015 levels) per tonne of CO_2 equivalent (CO_2e) emitted, without prejudice to paragraph 3.

This will result in companies registered under the proposed Section 4(1–3) paying tax on each tonne of CO_2e emitted of DKK 75 in 2025, DKK 135 in 2026, DKK 195 in 2027, DKK 255 in 2028, DKK 315 in 2029 and DKK 375 (2022 prices) from 1 January 2030 onwards.

In 2025 prices, the tax under Section 2(1) will be DKK 85.2 in 2025, DKK 153.3 in 2026, DKK 221.4 in 2027, DKK 289.6 in 2028, DKK 357.8 in 2029 and DKK 425.9 from 1 January 2030 per tonne of CO_2e emitted.

The tax will be payable on the emission of CO_2e from activities covered by Annex I to the Emissions Trading Directive when these are carried out in Denmark and when allowances are to be surrendered under the trading scheme for these emissions, cf. Section 1 of the draft Act. The allowance obligation also covers greenhouse gases other than CO_2 if they are listed in Annex I to the Emissions Trading Directive. There is therefore also an emissions tax on methane (CH_4), nitrous oxide (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF_6) where these stem from activities listed in Annex I and allowances shall be surrendered for the emissions.

It is proposed in *paragraph 2* that the rates referred to in paragraph 1 are adjusted in accordance with Section 32a of the Mineral Oil Tax Act.

This will mean that the proposed tax rates must be indexed annually to the changes in the net price index, as well as tax rates in the CO_2 Tax Act, the Mineral Oil Tax Act, the Coal Tax Act, the Gas Tax Act, the Electricity Tax Act, the Act on a tax on nitrogen oxides (NOx Tax Act) and the Act on a tax on sulphur.

Under Section 32a of the Mineral Oil Tax Act, the tax rates are adjusted in a number of excise duty laws based on 2015 levels. The rates are adjusted annually according to changes in the net price index published by Statistics Denmark, cf. Act on the calculation of a net price index.

The adjustment of rates shall be made on the basis of the annual average of the net price index for the year two years preceding the calendar year to which the rate is to apply. The rates shall be increased or reduced by the same percentage as the change in the net price index compared to 2013 levels. The percentage change shall be calculated to one decimal place. The rates resulting from the percentage adjustment shall be rounded up or down. If a rate for 2015 is given to a number of decimal places, this rate shall be expressed by adjustment and rounding to the same number of decimal places. If a rate for 2015 is given without any decimal places, this rate shall also be expressed by adjustment and rounding without any decimal places.

It is proposed in *paragraph 3, first sentence,* that the 2015 levels of the tax per tonne of CO_2e emitted from mineralogical processes, metallurgical processes, chemical reduction and electrolysis covered by Annex 2 to the Act should amount to DKK 94.9 in 2025, DKK 99.6 in 2026, DKK 104.4 in 2027, DKK 109.1 in 2028, DKK 113.9 in 2029 and DKK 118.6 from 1 January 2030 onwards.

This will mean that companies registered under the proposed Section 4(1) will have to pay tax on each tonne of CO_2e emitted, where the emissions come from mineralogical processes, metallurgical processes, chemical reduction and electrolysis covered by Annex 2, amounting to DKK 100 in 2025, DKK 105 in 2026, DKK 110 in 2027, DKK 115 in 2028, DKK 120 in 2029 and DKK 125 from 1 January 2030 onwards (2022 prices).

In 2025 prices, the tax rate referred to in Section 2(3), first sentence, will be DKK 113.6 in 2025, DKK 119.2 in 2026, DKK 125.0 in 2027, DKK 130.6 in 2028, DKK 136.3 in 2029 and DKK 142.0 from 1 January 2030 onwards, per tonne of CO_2e emitted.

The proposed Annex 2 to the Act specifies which non-energy related emissions and emissions from energy products are used for the processes that can be considered mineralogical processes, metallurgical processes, chemical reduction and electrolysis (mineralogical processes, etc.). The energy and CO_2 tax acts define these processes. It is proposed that a corresponding delimitation be used in this Act, cf. also the proposed second and third sentences. This will mean that the following processes in the Emissions Tax Act are considered mineralogical processes, etc.:

- Emissions resulting from the manufacture of glass. It includes emissions from energy products used directly in the production of glass and non-energy related emissions from the production of glass.

- Non-energy related emissions directly from and emissions from energy products used directly in the manufacture of slag wool, rock wool and similar mineral wools,

exfoliated vermiculite, expanded clays, foamed slag and similar expanded mineral substances, mixtures and articles of heat-insulating, sound-insulating or sound-absorbing mineral substances under heading 6806 of the EU Combined Nomenclature.

- Non-energy related emissions directly from and emissions from energy products used directly in the production of glass fibres, including glass wool, falling under heading 7019 of the EU Combined Nomenclature.

- Non-energy related emissions directly from and emissions from energy products used directly for ceramic firing and the prior drying of products intended for this purpose and for the manufacture of aerated concrete.

- Non-energy related emissions directly from and emissions from energy products used directly for heating, evaporating, drying or firing lime, chalk, chalkstone, marble and other calcium carbonate products, flint, gypsum, moler, bentonite and other clays, ferrous sulphate, copper sulphate and calcium oxide, and fertilisers with a dry matter content of at least 90 %, including at least 5 % phosphate after drying.

- Non-energy related emissions directly from and emissions from energy products used directly in the production of hydrogen, argon, inert gases, nitrogen, nitrous oxide, ozone and oxygen, including the filling of these gases into pressurised containers, to the extent that the gases are used in the production of the company instead of purchased gases or the gases are marketed.

- Non-energy related emissions directly from and emissions from energy products used directly in the production of cement.

- Non-energy related emissions directly from and emissions from energy products used directly for the fusion of metals and glass and for keeping molten metals and glass hot, as well as directly for the manufacture of rolled or continuous cast slabs and billets, and for the further processing of slabs and billets by hot rolling into plates, wire, rods and similar articles of iron or steel, not further processed e.g. by sandblasting, etc., for metal heat treatment plants and for the ventilation of premises where molten metal and glass are processed. Only the process of heating glass to more than 300 degrees and keeping the glass hot, which has been heated above in the manufacturing process are considered as fusion of glass and keeping molten glass hot.

Annex I to the Emissions Trading Directive defines the specific activities covered by the trading scheme, which is why it is proposed to be included as Annex 1 to this draft Act.

Trading activities which may involve mineralogical processes, include:

- production of cement clinker in rotary kilns with a production capacity exceeding 500 tonnes per day or in other kilns with a production capacity exceeding 50 tonnes per day;

- production of lime or calcination of dolomite or magnesite in rotary kilns or in other kilns with a production capacity exceeding 50 tonnes per day;

- manufacture of glass, including glass fibres, with a melting capacity exceeding 20 tonnes per day;

- manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware and porcelain, with a production capacity exceeding 75 tonnes per day;

- manufacture of mineral wool insulation material using glass, rock or slag with a melting capacity exceeding 20 tonnes per day; and

- drying or calcination of gypsum or production of plaster boards and other gypsum products with a production capacity of calcined gypsum or dried secondary gypsum exceeding 20 tonnes per day.

Trading activities which may involve metallurgical processes, include:

- metal ore (including sulphide ore) roasting or sintering, including pelletisation;

- production of iron or steel (primary or secondary fusion) including continuous casting, with a capacity exceeding 2.5 tonnes per hour;

- production or processing of ferrous metals (including ferro-alloys) where combustion units with a total rated thermal input exceeding 20 MW are operated. Processing includes, inter alia, rolling mills, re-heaters, annealing furnaces, smitheries, foundries, coating and pickling;

- production of primary aluminium or alumina. and PFC emissions resulting from them;

- production of secondary aluminium where using combustion units with a total rated thermal input exceeding 20 MW are operated; and

- production or processing of non-ferrous metals, including production of alloys, refinement, casting, etc. using combustion units with a total rated thermal input (including fuels used as reducing agents) exceeding 20 MW.

Trading activities which may involve electrolysis, include:

- production of hydrogen (H_2) and synthesis gas with a production capacity exceeding 5 tonnes per day.

Chemical reduction can be included in the production of metals and in certain other processes and occurs, for example, in the case of iron ore processes.

Not all of the above activities take place in Denmark currently.

It is proposed in *paragraph 3, second sentence*, that emissions from mineralogical and metallurgical processes must be produced as a result of heating in installations, and the materials involved in those processes must, through heating in the installations, alter the chemical or internal physical structure.

This will lead to the same delimitation of the processes considered to be mineralogical and metallurgical processes in this Act, as applicable under the energy and CO_2 tax acts. However, only energy-related emissions are covered in these acts, while the Emissions Tax Act will also cover non-energy related emissions, cf. the proposed third sentence.

It is proposed in *paragraph 3, third sentence*, that emissions also include non-energy related emissions from these processes.

As a result, both energy- and non-energy related emissions from the activities covered by the Act involving mineralogical processes, metallurgical processes, chemical reduction and electrolysis will be taxed.

It is proposed in *paragraph 4* that the rates referred to in paragraph 3 are adjusted in accordance with Section 32a of the Mineral Oil Tax Act.

This will mean that the proposed tax rates must be indexed annually to the changes in the net price index, as well as tax rates in the CO_2 Tax Act, the Mineral Oil Tax Act, the Coal Tax Act, the Gas Tax Act, the Electricity Tax Act, the Act on a tax on nitrogen oxides (NOx Tax Act) and the Act on a tax on sulphur.

Under Section 32a of the Mineral Oil Tax Act, the tax rates are adjusted in a number of excise duty laws based on 2015 levels. The rates are adjusted annually according to changes in the net price index published by Statistics Denmark, cf. Act on the calculation of a net price index.

The adjustment of rates shall be made on the basis of the annual average of the net price index for the year two years preceding the calendar year to which the rate is to apply. The rates shall be increased or reduced by the same percentage as the change in the net price index compared to 2013 levels. The percentage change shall be calculated to one decimal place. The rates resulting from the percentage adjustment shall be rounded up or down. If a rate for 2015 is given to a number of decimal places, this rate shall be expressed by adjustment and rounding to the same number of decimal places. If a rate for 2015 is given without any decimal places, this rate shall also be expressed by adjustment and rounding without any decimal places.

Reference is also made to points 3.2.2 and 3.2.8 of the general comments on the draft Act.

It is proposed in *paragraph 5* to incorporate rules on the obligation of registered companies to report any State aid received to the Tax Administration.

It is proposed in *paragraph 5, first sentence*, that companies which pay the tax at the rate referred to in paragraph 3 are required to report to the Tax Administration the difference between the reduced tax under paragraph 3 and the tax as it would have been if it had to be calculated according to the higher tax rates referred to in paragraph 1, if the difference exceeds EUR 100 000 in a calendar year. It is proposed in the *second sentence* that the conversion from Danish kroner into euro must be made at the rate applicable on the first working day of October for the year to which the report relates and in which it is published
in the Official Journal of the European Union. It is proposed in the *third sentence* that the calculation of the tax reduction under the first sentence must be made for each legal entity.

This will mean that companies that use the lower tax under Section 2(3), first sentence, are required to report the value of the aid they receive to the Tax Administration if the amount exceeds EUR 100 000 in a calendar year.

What is proposed in Section 2(3) constitutes an aid scheme in the form of a reduced tax rate for CO_2e emitted from mineralogical processes, etc. in relation to the tax rate under Section 2(1). This aid scheme is covered by the Commission's Guidelines on State aid for climate, environmental protection and energy 2022 (2022/C 80/01), including the transparency requirement.

The obligation to publish information on State aid arises, inter alia, from the above Guidelines. It follows that the application of the Guidelines requires Member States to publish certain information on aid awards. For aid awards exceeding EUR 100 000, publication is required, inter alia, of the name of the beneficiary, the size of the company, the date on which the aid was awarded and the amount of the aid. As regards aid
in the form of tax advantages, the amount of aid shall be disclosed in ranges from EUR 0.5–1, 1–2, 2–5, 5–10, 10–30 and 30 million and above. This follows from Section 3.2.1.4 of the Commission's Guidelines.

Failure to comply with the transparency requirement means that the aid awarded does not comply with the Guidelines and the conditions for its approval and may therefore, in principle, be considered to constitute incompatible State aid.

It is a precondition for disclosure of information in the State aid register that the Tax Administration possesses information on aid allocated in accordance with specific provisions of the various tax laws. At present, the reporting system is not designed in such a way that this information can be retrieved from the available data and, therefore, companies need to report this data.

It is proposed in *paragraph 6, first sentence*, that the Minister for Taxation shall lay down detailed rules on the reporting and publication of information reported under paragraph 5 and information on the company's name, type of company, CVR number, amount and date of the allocation.

The detailed rules on the reporting of such information are set out in Order No 1821 of 28 December 2023 on compliance with the rules for the award of State aid in tax matters. The Order will be extended to include the tax relief for mineralogical processes, etc. under this draft Act.

It is proposed in *paragraph 6, second sentence,* that, in addition, the Minister for Taxation shall lay down detailed rules stipulating that companies may not apply the tax rate laid down in Section 2(3) if they do not meet the conditions for receiving State aid in force at any time.

This will have the effect of authorising the Minister for Taxation to lay down detailed rules on compliance with the EU rules applicable at any time for the award of compatible State aid, which have an impact on the relief for mineralogical processes, etc. The Minister for Taxation will then be able to specify in an Order what conditions must be met in order to receive State aid under Section 2(3) of the Emissions Tax Act, including that undertakings in difficulty may not avail themselves of the scheme. The Minister for Taxation will be able to revise the Order if new EU regulations are laid down in the area which affect the scheme.

Undertakings in difficulty, as defined in point 14 of the Commission's Guidelines on State aid for climate, environmental protection and energy 2022 (2022/C 80/01), are not eligible for aid and will therefore not be entitled to pay the reduced tax rate under Section 2(3). It follows that aid for environmental protection and energy may not be granted to undertakings in difficulty within the meaning of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (Communication from the Commission – Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (2014/C 249/01), extended until the end of 2025 by Commission Communication of 28 November 2023). Undertakings in difficulty are defined in points 20 and 24.

According to point 20, 'for the purposes of these guidelines, an undertaking is considered to be in difficulty when, without intervention by the State, it will almost certainly be condemned to going out of business in the short or medium term. Therefore, an undertaking is considered to be in difficulty if at least one of the following circumstances occurs:

a) In the case of a limited liability company, where more than half of its subscribed share capital has disappeared as a result of accumulated losses. This is the case when deduction of accumulated losses from reserves (and all other elements generally considered as part of the own funds of the company) leads to a negative cumulative amount that exceeds half of the subscribed share capital.

b) In the case of a company where at least some members have unlimited liability for the debt of the company, where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses.

c) Where the undertaking is subject to collective insolvency proceedings or fulfils the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors.

In the case of an undertaking that is not an SME, where, for the past two years:

i. the undertaking's book debt to equity ratio has been greater than 7,5 and

ii. the undertaking's EBITDA interest coverage ratio has been below 1,0.'

However, it follows from point 24 of these Guidelines that an SME that has been in existence for less than three years will not be considered to be in difficulty unless it meets the condition set out in point 20(c).

The Minister for Taxation has laid down detailed rules for receiving State aid in Order No 1821 of 28 December 2023 on compliance with rules for the award of State aid in tax matters. This includes rules on reporting through the TastSelv web portal, etc., as well as the prohibition on granting aid to undertakings in difficulty.

Reference is also made to points 3.2.6 and 3.2.8 of the general comments on the draft Act.

Re Section 3

It is proposed in *Section 3* to define a number of terms used in the Act. The definitions correspond to those used in the CO_2 Allowances Act, rules laid down pursuant thereto and in EU acts on matters covered by the CO_2 Allowances Act.

It is proposed in *No 1* to define CO_2 equivalent as the quantity of a greenhouse gas corresponding to the global warming potential of one tonne of carbon dioxide (CO_2).

The definition follows from the trading scheme, including the definition in Article 3(f) of the Emissions Trading Directive.

The expression 'tonnes of CO_2 equivalent' shall be understood in accordance with the definition of 'tonne of carbon dioxide equivalent' in Article 3(f) of the Emissions Trading Directive, according to which it means one tonne of carbon dioxide (CO_2) or any other greenhouse gas listed in Annex II to the Directive in a quantity with an equivalent global warming potential.

It is proposed in *No 2* to define the operator as the legal or natural person who operates or controls a stationary installation or to whom decisive economic power over its technical functioning has been delegated.

The definition corresponds to the one used in the CO_2 Allowances Order.

It is proposed in *No 3* to define greenhouse gases as carbon dioxide (CO_2), methane (CH_4), laughing gas (N_2O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF_6) and other gaseous constituents of the atmosphere, both natural and anthropogenic, which capture and re-emit infrared radiation.

The definition corresponds to the one used in the CO_2 Allowances Act and Annex II to the Emissions Trading Directive.

It is proposed in *No 4, first sentence,* to define an allowance as proof of the right to emit one tonne of CO_2 equivalent for a specified period. It is proposed in the *second sentence* that the right should be regulated in more detail in the Emissions Trading Directive, which has been transposed by the CO_2 Allowances Act and other legal acts of the European Union established on the basis of the Emissions Trading Directive (the trading scheme).

The definition corresponds to the one used in the CO_2 Allowances Act.

It is proposed in *No 5* to define the Emissions Trading Directive as a Directive of the European Parliament and of the Council establishing a system for greenhouse gas emission allowance trading within the Union.

The definition corresponds to the one used in the CO_2 Allowances Order.

It is proposed in *No 6* to define the trading scheme as the regulation in the CO_2 Allowances Act, in rules issued pursuant to the CO_2 Allowances Act and in EU acts on matters covered by the
CO_2 Allowances Act.

The definition corresponds to the one used in the CO_2 Allowances Order.

It is proposed in *No 7* to define the obligation to surrender allowances as the obligation for operators, aircraft operators and maritime operators to surrender each year by 30 September at the latest in the Union Registry a number of allowances equal to their verified emissions in the preceding calendar year under the trading scheme.

The definition is inspired by Sections 10 and 12(1) of the Allowances Act.

It is proposed in *No 8* to define aircraft operator as the natural or legal person who operates an aircraft at the time it performs any of the aviation activities covered by the Act, or the owner of the aircraft, if the first person is unknown or not identified by the owner, including an operator making available to the public, against payment, scheduled flights or charter flights for the carriage of passengers, goods or postal items.

The definition corresponds to the one used in the CO_2 Allowances Order.

It is proposed in *No 9* to define the MR Regulation as the Commission Implementing Regulation on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation No 601/2012/EU.

The definition corresponds to the one used in the CO_2 Allowances Order.

The MR Regulation was adopted as Commission Implementing Regulation (EU) 2018/2066 of 19 December 2018 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive 2003/87/EC of the European Parliament and of the Council and amending Commission Regulation No 601/2012/EU and was last amended by Commission Implementing Regulation (EU) 2022/1371 of 5 August 2022.

It is proposed in *No 10* to define the MRV Regulation as a Regulation of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC.

The definition corresponds to the one used in the CO_2 Allowances Order.

The MRV Regulation has been adopted as Council Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC, as last amended by European Parliament and Council Regulation (EU) 2023/957 of 10 May 2023

It is proposed in *No 11* to define operator as an operator, aircraft operator, maritime operator (shipping company), fuel operator (regulated entity) or anyone else subject to EU rules on requirements for greenhouse gas emission allowance trading.

The definition corresponds to the one used in the CO_2 Allowances Act.

It is proposed in *No 12* to define the monitoring plan as the operator's or aircraft operator's greenhouse gas emissions monitoring plan approved by the competent authority in accordance with Article 11 of the MR Regulation and the maritime operator's corresponding mar-

itime monitoring plan referred to in Article 6(6–8) of the MRV Regulation.

The definition of the monitoring plan corresponds to the definitions deriving from the MR and MRV Regulations and are therefore the definitions used in the trading scheme.

It is proposed in *No 13* to define the maritime operator as a shipping company or shipowner or any other organisation or person, such as a manager or bareboat charterer covered by the provisions of the trading scheme, because that person meets the definition of 'shipping company' within the meaning of Article 3(w) of the Emissions Trading Directive.

The definition corresponds to the one used in the CO_2 Allowances Order.

It is proposed in *No 14* to define the emissions report as the operator's or aircraft operator's verified annual emissions report for the reporting period submitted to the competent authority, cf. Article 68 of the MR Regulation, and the corresponding maritime report of the companies, cf. Article 11 of the MRV Regulation.

Consequently, the definition of emissions report corresponds to the definitions deriving from the MR and MRV Regulations and are therefore the definitions used in the trading scheme, as the regulations have direct effect in Danish law.

It is proposed in *No 15* to define an emissions permit as a permit for an operator or fuel operator to emit greenhouse gases, cf. Section 4(1) of the CO_2 Allowances Act.

The definition corresponds to the one used in the CO_2 Allowances Order.

Re Section 4

It is proposed in *paragraph 1, first sentence,* that a company must be registered with the Tax Administration if it carries out activities which require the operator to have a permit from the Danish Energy Agency to emit greenhouse gases.

This will mean that companies with trading activities in stationary installations which, under the trading scheme, must hold an emissions permit prior to the commencement of the trading activity, will have to be registered for emissions tax with the Tax Administration.

Article 4 of the Emissions Trading Directive requires Member States to ensure that no installation undertakes any activity listed in Annex I resulting in emissions specified in relation to that activity unless its operator holds a permit issued by a competent authority in accordance with Articles 5 and 6, or the installation is temporarily excluded from the Community scheme pursuant to Article 27.

According to Section 4 of the CO_2 Allowances Act, operators must hold an emissions permit issued by the Danish Energy Agency. Applications for emissions permits shall be submitted to the Danish Energy Agency.

According to Article 6(2)(a–e) of the Emissions Trading Directive, the emissions permit includes, inter alia, a description of the activities and emissions from the installation, a monitoring plan, reporting requirements and an obligation to surrender allowances equal to the total emissions of the installation.

Once an installation has received an emissions permit, the operator shall keep the competent authority informed of any changes to the installation that result in the permit being no longer valid. These are, for example, changes that affect the emissions of the installation, cf. Article 7, first sentence, of the Emissions Trading Directive. If such changes to the installation occur, the competent authority must update the permit in accordance with Article 7, second sentence, of the Emissions Trading Directive.

The emission permit shall be coordinated with the conditions and procedure for a permit under Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), where applicable, in accordance with Article 8 of the Emissions Trading Directive. The Industrial Emissions Directive (IED) covers activities listed in Annex I, cf. Chapter II of the Directive, cf. Article 2(1).

According to Section 10(1) of the CO_2 Allowances Act, operators must, in accordance with the rules of the trading scheme, surrender each year by 30 September at the latest in Union Registry a number of allowances equal to their verified emissions in the previous calendar year. In accordance with Section 21(3), the Minister for Climate, Energy and Utilities may lay down rules on, inter alia, monitoring, reporting and verification in connection with greenhouse gas emissions covered by the trading scheme.

For the purposes of the tax adjustment, the company is generally the entity subject to registration and the tax. It is therefore proposed that the company for which the operator has obtained an emissions permit will have to register.

The company will have to register at www.virk.dk to obtain a registration in Erhvervssystemet. A company registered in Erhvervssystemet must declare the tax for each tax period via the TastSelv Erhverv (Self-Key Business) web portal.

Failure to declare will result in the Tax Administration making a provisional determination of the company's liability for the tax period, cf. Section 4(1) of the Tax Collection Act. The company will have to pay a fee of DKK 800 for a provisional determination, cf. paragraph 2. The

Tax Administration will also check and verify the declaration. The company will also have to pay tax via the Tax Account and, in the event of non-payment, the claim will be sent for recovery by the Danish Debt Collection Agency. The detailed requirements for registered companies follow from the proposed Emissions Tax Act.

It is proposed in the *second sentence* that registration must take place within 14 days of receipt of the emissions permit.

This will result in companies having 14 days from receiving the emissions permit to register with the Tax Administration.

It is proposed in the *third sentence* that operators covered by the proposed paragraph 1 who hold an emissions permit on 1 January 2025 must register with the Tax Administration no later than 14 January 2025.

As a result, operators covered by Section 4(1) who hold an emissions permit on 1 January 2025 will be registered with the Tax Administration by the end of 14 January 2025.

It is proposed in *paragraph 2, first sentence*, that a company must be registered with the Tax Administration if it operates domestic aviation in Denmark, cf. Section 1(3), which requires the aircraft operator to surrender allowances under the trading scheme.

The proposed first sentence means that companies operating trading domestic aviation in Denmark must be registered for emissions tax with the Tax Administration.

Article 3g of the Emissions Trading Directive requires Member States to ensure that each aircraft operator submits to the competent authority of the Member State a monitoring plan setting out measures to monitor and report emissions and tonne-kilometre data and that such plans are approved by the competent authority.

Aircraft operators shall be subject to this obligation if they have activities as set out in Annex I to the Emissions Trading Directive.

Article 12(3)(b) requires Member States to ensure that each aircraft operator surrenders a number of allowances equal to its total emissions during the preceding calendar year as verified in accordance with Article 15.

This obligation for aircraft operators to surrender allowances is set out in Section 19 of the CO_2 Allowances Order. However, the Order imposes such an obligation only on aircraft operators who are required to surrender allowances to Denmark. However, with the draft Act, the obligation to register for tax could also apply to aircraft operators that are not obliged to surrender allowances to Denmark but nevertheless operate domestic aviation.

According to Section 10(1) of the CO_2 Allowances Act, aircraft operators shall, in accordance with the rules of the trading scheme, surrender each year by 30 September at the latest in the Union Registry a number of allowances equal to their verified emissions in the previous calendar year. In accordance with Section 21(3), the Minister for Climate, Energy and Utilities may lay down rules on, inter alia, monitoring, reporting and verification in connection with greenhouse gas emissions covered by the trading scheme.

What is being proposed would mean that the company with activities that generate emissions would be the entity subject to registration and the tax. This is consistent with the excise duty adjustment, where the company is generally the entity subject to registration and the tax.

The company will have to register at www.virk.dk to obtain a registration in Erhvervssystemet. A company registered in Erhvervssystemet will have to declare the tax for each tax period via the TastSelv Erhverv web portal. Failure to declare will result in the Tax Administration making a provisional determination of the company's liability for the tax period, cf. Section 4(1) of the Tax Collection Act. The company will have to pay a fee of DKK 800 for a provisional determination, cf. paragraph 2. The Tax Administration will also check and verify the declaration. The company will also have to pay tax via the Tax Account and, in the event of non-payment, the claim will be sent for recovery by the Danish Debt Collection Agency. The detailed requirements for registered companies follow from the proposed Emissions Tax Act.

It is proposed in *paragraph 2, second sentence*, that registration must be made no later than 14 days after approval of the monitoring plan by the Danish Energy Agency or a competent authority in another EU country if it is expected that the company will be subject to the allowance surrender obligation, cf. paragraph 4.

The proposed second sentence means that the company must notify about registration no later than 14 days after the Danish Energy Agency or a competent authority in another EU country has approved the company's monitoring plan if it is expected that the company will be subject to the allowance surrender obligation, cf. paragraph 4.

It is proposed in the *third sentence* that companies which had a trading activity in 2024 must register, in accordance with the proposed paragraph 2, with the Tax Administration no later than 14 January 2025.

As a result, by the end of 14 January 2025, companies that had trading activities in 2024 will be registered with the Tax Administration.

It is proposed in *paragraph 3, first sentence*, that a company must register with the Tax Administration if it operates domestic ferry services in Denmark, which requires the maritime operator to be required under the trading scheme to surrender allowances.

This will mean that companies operating trading domestic ferry services will have to be registered for emissions tax with the Tax Administration.

Article 3gd of the Emissions Trading Directive requires Member States to ensure that a shipping company performing maritime activities listed in Annex I under its responsibility monitors and reports the relevant parameters during a reporting period and submits aggregated emissions data at company level to the competent authority in accordance with Chapter II of the MRV Regulation.

The maritime activities listed in Annex I to the Emissions Trading Directive include maritime transport activities, with the exception of those maritime transport activities covered by Article 2(1a) and (1b) of the MRV Regulation. As of 1 January 2027, activities covered by Article 2(1b) of the MRV Regulation are also covered by the Emissions Trading Directive.

Article 2(1) of the Regulation covers ships of 5 000 gross tonnage and above in respect of the greenhouse gas emissions emitted during their voyages for the carriage of goods or passengers for commercial purposes from the last port of call of such ships to a port of call under the jurisdiction of a Member State and from a port of call under the jurisdiction of a Member State to their next port of call, as well as within ports of call under the jurisdiction of a Member State.

According to Section 10(1) of the CO_2 Allowances Act, maritime operators shall, in accordance with the rules of the trading scheme, surrender by 30 September at the latest of each year in the Union Registry a number of allowances equal to their verified emissions in the previous calendar year. In accordance with Section 21(3), the Minister for Climate, Energy and Utilities may lay down rules on, inter alia, monitoring, reporting and verification in connection with greenhouse gas emissions covered by the trading scheme.

What is being proposed would mean that the company with activities that generate emissions would be the entity subject to registration and the tax. This is consistent with the excise duty adjustment, where the company is generally the entity subject to registration and the tax.

The company will have to register at www.virk.dk to obtain a registration in Erhvervssystemet. A company registered in Erhvervssystemet will have to declare the tax for each tax period via the TastSelv Erhverv web portal. Failure to declare will result in the Tax Administration making a provisional determination of the company's liability for the tax period, cf. Section 4(1) of the Tax Collection Act. The company will have to pay a fee of DKK 800 for a provisional determination, cf. paragraph 2. The Tax Administration will also check and verify the declaration. The company will also have to pay tax via the Tax Account and, in the event of non-payment, the claim will be sent for recovery by the Danish Debt Collection Agency. The detailed requirements for registered companies follow from the proposed Emissions Tax Act.

It is proposed in *paragraph 3, second sentence*, that registration must be made within 14 days of the approval of the monitoring plan for monitoring and reporting annual CO_2 emissions to the Danish Energy Agency or a competent authority in another EU country if it is expected that the company will be subject to the allowance surrender obligation, cf. paragraph 4.

This will result in companies having 14 days from the approval of the monitoring plan to register with the Tax Administration if it is expected that the company will be subject to allowance surrender obligations.

It is proposed in the *third sentence* that companies which, from 2025, are subject to the obligation to surrender allowances under the Directive as maritime operators shall, once the conditions set out in paragraph 4 are met, register under paragraph 3 with the Tax Administration no later than 14 January 2025.

This will mean that, companies which, from 2025, are subject to the obligation to surrender allowances under the Emissions Trading Directive as maritime operators will, once the conditions set out in the proposed Section 4(4) are met, be registered with the Tax Administration by the end of 14 January 2025

It is proposed in *paragraph 4, first sentence*, that unless there are special circumstances, a company must register in accordance with paragraph 2 or 3 if, in the previous year, it was subject to the obligation to surrender allowances to the Danish Energy Agency or a competent authority in another EU country.

Therefore, companies will, in principle, be required to register under Section 4(2) and (3) if the company had to surrender allowances to a competent authority in the previous year, unless there have been changes that make the company strongly assume that it will not have to surrender allowances to the Danish Energy Agency or a competent authority in another EU country.

These exceptional circumstances may arise, for example, when a company does not expect to meet the requirements for the number of flights leading to allowances having to be paid or where a company no longer uses a maritime vessel subject to the trading scheme's requirements on surrendering allowances. However, irrespective of such special circumstances, a company must remain registered in order to be able to settle the final tax under the proposed Section 9 of the Act.

Companies will be subject to the obligation under the Act to declare and settle tax on an ongoing basis from the time of registration. No tax shall be declared and paid on emissions made prior to the date of registration.

It is proposed in *paragraph 4, second sentence*, that a company which has not been in possession of a monitor-

ing plan or was required to surrender allowances in previous years must register with the Tax Administration at the time when it could be assumed that, at the end of the year, the company will surrender allowances to the Danish Energy Agency or a competent authority in another EU country.

A company that has not been required to surrender allowances in the previous year shall register at the time when the company is, or should be aware, that at the end of the year, the company will have to surrender allowances to a competent authority. In this context, attention may be paid, inter alia, to prior emissions reports, approved monitoring plans and the activity of the company.

It is proposed in *paragraph 4, third sentence*, that the company is required, from the time of registration or when it should have registered in accordance with the second sentence, to declare and settle the tax on an ongoing basis.

This will mean that, from the date on which the company should have registered with the Tax Administration, the company will be subject to the obligation under the Act to declare and settle tax on an ongoing basis.

It is proposed in *paragraph 5* that the Tax Administration issues a certificate of registration in accordance with paragraphs 1–3.

The proposed provision would result in the Tax Administration issuing a certificate of registration to the registered companies. The certificate is created digitally and can be obtained by the company via the website of the Tax Administration.

This certificate could be used, inter alia, as evidence that the company can be exempted from the CO_2 tax for the trading activity.

Reference is also made to point 3.2.3 of the general comments on the draft Act.

Re Section 5

It is proposed in *paragraph 1* that the tax period is the month.

Registered companies will therefore have to pay tax on the taxable greenhouse gas emissions on a monthly basis. The tax will be calculated in accordance with Sections 5(2–5) and 6. The tax will have to be declared to the Tax Administration in accordance with Sections 8 and 9.

It is proposed in *paragraph 2* that, at the end of each tax period, registered companies must settle the taxable quantity of greenhouse gas emissions on a provisional basis.

This will mean that registered companies under Section 4 will have to calculate, at the end of each month, a provisional quantity of the taxable greenhouse gas emissions in accordance with Section 1. The calculation is regulated in more detail in the proposed paragraph 3.

It is proposed in *paragraph 3* that the provisional quantity of greenhouse gas emissions in the tax period is calculated on the basis of the measurement of energy consumption or greenhouse gas emissions in accordance with Section 6 or greenhouse gas emissions in the preceding two calendar years (at most) calculated in accordance with Section 6, without prejudice to paragraph 4.

This will mean that the provisional calculations under paragraph 2 must be made on the basis of the measurement of energy consumption or greenhouse gas emissions in accordance with Section 6, or the emissions in the preceding two calendar years (at most), where a company has previously calculated the taxable emissions in accordance with Section 6.

The measured emissions may be used when a registered company calculates the emissions either by measuring energy consumption in accordance with the trading scheme or Energy and CO_2 Tax Acts or direct measurement of emissions. However, registered companies that are also liable to tax on non-energy related emissions will have to include them in the provisional calculation.

Alternatively, the calculation may be made in accordance with Section 6 based on the monitoring and reporting requirements of the Emissions Trading Directive, but with special rules for aviation and maritime transport, where only domestic aviation and domestic ferry services are included. Therefore, emissions reports from the preceding two calendar years (at most) and the information underlying these reports can also be used as a basis for the provisional calculation. The provisional calculation may therefore consist, for example, of the monthly average for the two years or another calculation based on the emissions reports, etc., possibly adjusted for matters covered by the proposed paragraph 4.

The matters referred to in the proposed paragraph 4 may be taken into account for the purposes of the provisional calculation.

It is proposed in *paragraph 4, first sentence*, that registered companies may take into account, in the provisional calculation of the taxable quantity, information which may have an impact on the calculation of emissions in the current calendar year, including the amendment of monitoring plans due to capacity extensions.

This will mean that in the provisional calculation of the taxable quantity under paragraph 2, which must in principle be calculated in accordance with paragraph 3, a number of other factors may be taken into account in order to ensure that it reflects, as far as possible, the actual CO_2 emissions as they will be calculated at the end of the year, cf. Section 6.

Factors that may be taken into account include, inter alia, prior emissions reports on verified emissions from the same installation, monitoring plans, as the Emissions Trading Directive requires these to be updated in the event of major changes which may have an impact on the calculation method, and emissions from the installation, including capacity extensions, as well as the actual energy consumption of the installation within the period.

It is proposed in *paragraph 4, second sentence,* that registered companies which have not previously submitted emissions reports to the Danish Energy Agency or a competent authority in another EU country under the trading scheme should calculate taxable emissions in the first calendar year on the basis of the expected emissions in each tax period.

What is being proposed will mean that companies which have not previously submitted emissions reports to a competent authority under the trading scheme will have to calculate the taxable emissions in the first calendar year on the basis of the expected emissions in each tax period. The circumstances referred to in the first sentence may be included in the calculation.

It is proposed in *paragraph 5* that, in the absence of an approved monitoring plan in accordance with the MRV Regulation before 6 June 2025, the provisional calculations, cf. paragraph 1, for 2025 may be made on the basis of the submitted monitoring plan and the final calculation.

In the absence of an approved monitoring plan before 6 June 2025, shipping companies with trading domestic ferry services will have to calculate emissions on the basis of the submitted monitoring plan.

It is proposed in *paragraph 6* that the Minister for Taxation may lay down rules on documentation for the calculation of the taxable quantity of greenhouse gas emissions in accordance with paragraphs 1–4.

Such rules shall be presumed to relate to documentation underlying companies' provisional calculation of taxable greenhouse gas emissions, including documentation of emissions' measurement and other matters covered by paragraphs 1–4.

Reference is also made to point 3.2.4 of the general comments on the draft Act.

Re Section 6

It is proposed in *paragraph 1, first sentence,* that registered companies must, at the end of the calendar year, make a final calculation of the quantity of taxable emissions.

This will mean that, at the end of a calendar year, registered companies will have to make a final calculation of emissions, on which a tax will be payable. The calculation will have to be made in accordance with the rules laid down in the proposed paragraph 1, second sentence, and paragraphs 2–6, so that the calculation follows the rules on the use of methods, etc. for reporting and verification under the Emissions Trading Directive.

It is proposed in the *second sentence* that the final taxable quantity is calculated as greenhouse gas emissions, cf. Section 1, calculated on the basis of the emissions report approved by the competent authority under the MR and MRV Regulations, without prejudice to paragraphs 2, 3 and 5.

As a result, the taxable quantity for emissions from stationary installations and aviation will have to be calculated on the basis of the Commission's MR Regulation and the taxable quantity for maritime emissions will have to be calculated on the basis of the MRV Regulation.

In addition, it will be the methods for calculating emissions laid down in the approved monitoring plan of the registered company that will be used to calculate the taxable emissions.

The calculation of the taxable emissions from trading activities in Denmark can therefore be performed by using the results of the emissions report when there is an overlap between the trading activities included in the report and the taxable field, cf. Section 1 of the draft Act.

According to Article 14(3) and Article 15 of the Emissions Trading Directive, emissions from stationary installations and aviation, for which allowances are to be paid, are to be calculated in accordance with the MR Regulation.

According to Article 3ge of the Emissions Trading Directive, the calculation for shipping is to be made in accordance with the MRV Regulation.

These regulations contain requirements for the calculation of emissions from trading activities and require companies to draw up a monitoring plan on the basis of these rules, which must be approved by the competent authority, i.e., in the case of Denmark, by the Danish Energy Agency. In addition, the regulations also contain metrological requirements and requirements for the procedure for calculating and verifying emissions.

It also follows from the regulations that a company with trading activities must prepare an emissions report to be verified by an accredited verifier.

The verified emissions are set out in the emissions report, which forms the basis for the obligation to surrender allowances. The emissions report is submitted annually to the competent authority, which in Denmark is the Danish Energy Agency.

According to Articles 4 and 5 of the Emissions Trading Directive, emissions reports relating to emissions from trading activities in stationary installations must be de-

livered to the competent authority of the Member State in which the installation is located.

Article 18a of the Emissions Trading Directive requires emissions reports in respect of emissions from trading aviation to be delivered to the competent authority of the Member State which has granted a valid operating licence under Council Regulation (EEC) No 2407/92 of 23 July 1992 on licensing of air carriers or, failing that, the Member State with the greatest estimated attributed aviation emissions from flights performed by that aircraft operator in the base year

According to Article 3gf (1) of the Emissions Trading Directive, the administering authority in respect of a shipping company shall be (a) in the case of a shipping company registered in a Member State, the Member State in which the shipping company is registered; (b) in the case of a shipping company that is not registered in a Member State, the Member State with the greatest estimated number of port calls from voyages performed by that shipping company in the preceding four monitoring years and falling within the scope set out in Article 3ga; or (c) in the case of a shipping company that is not registered in a Member State and that did not carry out any voyage falling within the scope set out in Article 3ga in the preceding four monitoring years, the Member State where a ship of the shipping company has started or ended its first voyage falling within the scope set out in that Article.

Therefore, not all emissions from voyages and flights between two Danish destinations are shown in the emissions reports to be submitted to the Danish Energy Agency under the Emissions Trading Directive. The calculation of this taxable quantity from these activities would therefore have to be performed in accordance with the proposed paragraph 2 for domestic aviation and paragraph 3 for domestic ferry services.

Emissions stored in accordance with Directive 2009/31 on the geological storage of carbon dioxide shall not be counted as emissions subject to surrender within the meaning of Article 12(3a) of the Emissions Trading Directive.

The MR and MRV Regulations stipulate when companies with trading activities are required to draw up a monitoring plan setting out, inter alia, the methods used and uncertainties accepted in the calculation of trading emissions.

Chapter III of the MR Regulation sets out the rules on monitoring emissions from stationary installations.

According to Article 21 of the MR Regulation, the operator of a stationary installation chooses to use either a calculation-based methodology or a measurement-based methodology. A calculation-based methodology shall consist in determining emissions from source streams on the basis of activity data obtained by means of measurement systems and additional parameters from laboratory analyses or default values. The calculation-based methodology may be implemented in accordance with the standard methodology set out in Article 24 or the mass balance methodology set out in Article 25. The calculation-based methodology is specified in Chapter III, Section 2 of the Regulation.

A measurement-based methodology shall consist in determining emissions from emission sources by means of continuous measurement of the concentration of the relevant greenhouse gas in the flue gas and of the flue-gas flow, including the monitoring of CO_2 transfers between installations where the CO_2 concentration and the flow of the transferred gas are measured. The measurement-based methodology is specified in Chapter III, Section 3 of the Regulation.

Annex II to the MR Regulation also regulates tiers for calculation factors for combustion emissions, mass balances and CO_2 process emissions. Annex IV also lists activity-specific monitoring methodologies related to processes carried out in stationary installations. In addition, reference values for calculation factors, including stoichiometric emission factors for process emissions from, inter alia, carbonate decomposition are set out in Annex IV.

Chapter IV sets out rules on the monitoring of emissions and tonne-kilometre data from aviation. Annex III also deals with calculation methods for determining of GHGs in the aviation sector. For this reason, these methods of calculation must be used in determining the taxable quantity. Annex X also sets out requirements for the annual emissions report for aircraft, including requirements on the total number of flights per State pair covered by the report.

The MRV Regulation lays down rules on the calculation, monitoring and verification of greenhouse gas emissions from maritime transport. Chapter I, Section I sets out, inter alia, the principles and methods for monitoring and reporting. The company, which may consist of the shipowner or other organisation that has assumed responsibility for the operation of the ship for the shipowner, shall monitor greenhouse gas emissions in accordance with one of the methods set out in Annex I to the Regulation and monitor relevant information in accordance with Annex II to the Regulation or rules adopted pursuant thereto.

The Commission may adopt delegated acts to amend Annexes I and II of the MRV Regulation.

Annex I provides for a calculation of CO_2 emissions. This is done by multiplying the fuel consumption from the covered voyage by an emission factor set out in the Annex. Actual fuel consumption for each voyage shall be used and be calculated using one of four methods: (1) Bunker Fuel Delivery Note (BDN) and periodic stocktakes of fuel tanks; (2) bunker fuel tank monitoring on board; (3) flow meters for applicable combustion pro-

cesses; or (4) direct CO_2 emissions measurements. The verifier may allow the use of a combination of these methods.

Annex II specifies the monitoring obligations of companies, including on a per voyage basis. This includes, inter alia, information on the date and hour of departure from berth and arrival at berth, the distance travelled, which may be either the most direct route between the port of departure and the port of arrival or the real distance travelled.

Emissions from aviation and maritime transport are taxable only where the emissions come from domestic transport. Emissions reports will often also cover emissions from international transport and cannot therefore directly be taken as the basis for calculating the quantity of taxable emissions.

Section 2(3) of the draft Act proposes a lower tax rate for taxable emissions from mineralogical and metallurgical processes, chemical reduction and electrolysis than from other activities. These emissions will therefore have to be accounted for separately from other emissions.

The proposed Section 6(2–4) specifies the emissions to be included in the calculation of taxable emissions from mineralogical and metallurgical processes, chemical reduction and electrolysis, domestic aviation and domestic maritime transport.

Emissions stored in accordance with Directive 2009/31 are not counted as emissions subject to surrender within the meaning of Article 12(3a) of the Emissions Trading Directive. Such emissions are therefore not subject to tax either.

For emissions from stationary installations, the emissions for which allowances have to be surrendered will be reported directly in the emissions report.

However, for aviation and maritime transport, the emissions for which allowances have to be surrendered do not correspond to the taxable emissions, as the tax is limited to domestic ferry services and domestic aviation. There may therefore be cases where registered companies are not required to surrender allowances to the Danish part of the Union Registry even if they operate domestic aviation or domestic ferry services in Denmark. There may also be cases where registered companies are liable to surrender allowances to the Danish part of the Union Registry, but only have to pay emissions tax for part of the emissions covered by the trading scheme. This is the case, for example, if, in addition to domestic ferry services, a shipping company is also engaged in trading international voyages.

Moreover, the taxable quantity of emissions is not affected by any reductions in the companies' obligation to surrender allowances resulting from the phasing-in of allowance adjustments for, inter alia, maritime transport. In such cases, the full verified emissions subject to the tax shall be taken as the basis for calculating the tax.

Under the proposed paragraph 4, the Minister for Taxation may lay down rules on documentation for the calculation of the taxable quantity of greenhouse gas emissions that must be calculated in accordance with paragraphs 1–3.

The effect of what is being proposed is that the Minister for Taxation may lay down detailed rules on the documentation which registered companies, which must calculate tax in accordance with paragraph 1, are required to possess.

It is proposed in *paragraph 2* that registered companies, in accordance with Section 4, are required to calculate the amount of emissions from domestic aviation.

This will result in registered companies having to calculate taxable emissions from domestic aviation according to the MR Regulation and the approved monitoring plan, in accordance with Article 11 of the MR Regulation.

Emissions from domestic aviation are not separately included in the emissions report to be submitted to the competent authority. However, emissions from domestic aviation are included in the total emissions reported in the emissions report. It is therefore necessary for companies to calculate separately the domestic aviation emissions to be covered by the emissions tax.

The methodology used for calculating a registered company's emissions shall be done in accordance with the proposed Section 6(1) and in accordance with the methodology used to calculate emissions under the monitoring plan.

Under the proposed paragraph 4, the Minister for Taxation may lay down rules on documentation for the calculation of the taxable quantity of greenhouse gas emissions that must be calculated in accordance with paragraphs 1–3. This means that the Minister for Taxation may lay down detailed rules on the documentation which registered companies, which must calculate tax in accordance with paragraph 2, are required to possess.

It is proposed in *paragraph 3* that registered companies under Section 4 are required to calculate the amount of emissions from domestic ferry services.

This will mean that registered companies will have to calculate taxable emissions from domestic ferry services.

Emissions from domestic ferry services are not separately included in the emissions report to be submitted to the competent authority. It is therefore necessary for companies to calculate separately the emissions from domestic ferry services to be covered by the emissions tax.

The methodology used for calculating a registered company's emissions must be applied in accordance with the proposed Section 6(1) and in accordance with the

methodology used for the calculation of emissions under the monitoring plan, cf. Chapter II of the MRV Regulation.

It follows from the MRV Regulation that companies have to submit a monitoring plan to the competent authorities in 2024, but they are only required to be approved on 6 June 2025. As it is proposed that the Act enters into force on 1 January 2025, there may therefore be no approved monitoring plans for domestic ferries during the first five months after the Act enters into force.

It is proposed in *paragraph 4* that the Minister for Taxation may lay down rules on documentation for the calculation of the taxable quantity of greenhouse gas emissions that must be calculated in accordance with paragraphs 1–3.

The effect of what is being proposed is that the Minister for Taxation may lay down rules on the documentation which registered companies, which must calculate tax in accordance with paragraph 1–3, are required to possess. This may include, for example, requirements for the documentation of measurements underlying the allocation between the calculation referred to in paragraphs 1, 2 and 3, as well as documentation on the calculation of the taxable quantity of emissions from domestic aviation and domestic ferry services.

It is proposed in *paragraph 5, first sentence,* that registered companies under Section 4 must calculate the amount of emissions related to mineralogical processes, metallurgical processes, chemical reductions and electrolysis covered by Section 2(3).

This will mean that registered companies will have to calculate the amount of emissions from mineralogical processes, metallurgical processes, chemical reductions and electrolysis.

According to what is being proposed in Section 2(3), first sentence, a lower tax rate will apply to emissions from mineralogical processes, metallurgical processes, chemical reductions and electrolysis than to other emissions. It is therefore necessary for the company to calculate these emissions separately for the purposes of the declaration and settlement of the tax.

The proposed Annex 2 to the Act specifies which non-energy related emissions and emissions from energy products used for the processes may be considered mineralogical processes, metallurgical processes, chemical reduction and electrolysis (mineralogical processes, etc.). The energy and CO_2 tax acts define these processes. It is proposed that a corresponding delimitation be applied in this Act. Reference is also made to the comments on Section 2(3) of the draft Act.

The methodology used for calculating a registered company's emissions shall be done in accordance with the proposed Section 6(1) and in accordance with the methodology used to calculate emissions under the monitoring plan.

The calculation is therefore carried out in accordance with the MR Regulation.

As a result of what is being proposed, the calculation of emissions from processes covered by paragraph 1 is, in principle, performed in the same way as the emissions from trading activities are to be accounted for under the Emissions Trading Directive.

Chapter III of the MR Regulation sets out rules on the monitoring of emissions from stationary installations, including a calculation-based methodology and a measurement-based methodology. Annex IV to the MR Regulation lists activity-specific monitoring methodologies related to stationary installations, including for the production of goods produced by mineralogical and metallurgical processes, chemical reductions and electrolysis.

The calculation of emissions shall be based on the methodologies laid down in the MR Regulation and the monitoring plan approved by the Danish Energy Agency in accordance with Article 11 of the Regulation.

It is proposed in *paragraph 5, second sentence,* that a proportionate part of the tax can be attributed to the first sentence, where the same installation supplies both uses covered by the first sentence and other uses within the company, when such an allocation can be calculated. It is proposed in *paragraph 5, third sentence,* that Section 11(5)(4) of the Act on an energy tax on mineral oil products, etc., Section 11(5)(4) of the Act on a tax on natural gas and town gas, etc. and Section 8(4)(4) of the Act on a tax on coal, lignite and coke, etc. shall apply mutatis mutandis to the calculation of the proportional allocation.

What is being proposed in the second and third sentences will mean that the company will be able to allocate the emissions proportionally in cases where the same installation supplies both uses covered by the first sentence and other uses within the company, when such an allocation can be calculated. Section 11(5)(4) of the Mineral Oil Tax Act, Section 11(5)(4) of the Gas Tax Act and Section 8(4)(4) of the Act on the taxation of mineral oils, which contain identical calculation rules, shall apply mutatis mutandis when determining the proportional allocation. Under those provisions, it is possible, inter alia, to allocate proportionally if the company installs the necessary meters. The main rule is that emissions covered by the proposed provision in the first sentence on mineralogical processes, etc. shall be calculated. However, it may be easier in certain cases to measure emissions subject to the tax rate stipulated in Section 2(1).

It follows from Section 11(5)(4) of the Mineral Oil Tax Act that a proportional part of the tax on goods, cooling and heating consumed in installations producing both heating, cooling and hot water produced in an indepen-

dent installation could be repayable, as well as a non-repayable supply of heating, cooling, space heating and hot water, where such a proportional allocation can be determined. The repayable share is calculated as the ratio between, on the one hand, the quantity of energy consumed in the eligible installations and, on the other hand, the energy content of the total quantity of heating and cooling produced.

In installations where the inlet temperature is above 90 °C or in installations where the non-repayable part is less than 10 % of the total production, or the non-repayable share is less than 200 GJ per year, the company may choose between calculating the proportion used in non-repayable installations according to the above methodology and directly calculating the consumption for non-repayable purposes. The directly calculated quantity shall be calculated as the quantity of energy consumed for non-repayable purposes divided by the energy content of the fuels fired, cf. Section 9(2). This quantity is divided by the efficiency of the installation. If the measurement is not carried out in the immediate vicinity of the plant producing the heat, an additional 10 % is added. The remaining quantity of fuel is included in the repayable part. The efficiency for gas-fired plants is 0.90, for oil-fired plants 0.85 and for other plants 0.80.

For the purposes of this draft Act, the repayable part shall be understood as emissions from mineralogical processes, metallurgical processes, chemical reduction and electrolysis.

Since emissions from most trading activities are calculated on the basis of fuel consumption, the allocation rules under the energy tax acts could be applied.

It is proposed in *paragraph 6* that the Minister for Taxation may lay down rules on documentation for the calculation of the taxable quantity of greenhouse gas emissions that must be calculated in accordance with paragraph 5.

The effect of what is being proposed is that the Minister for Taxation may lay down detailed rules on the documentation which registered companies, which must calculate tax in accordance with paragraph 5, are required to possess.

It is assumed that the Minister for Taxation may lay down detailed rules on the documentation which registered companies, which must calculate tax in accordance with paragraph 5, are required to possess. This may include, for example, requirements for the documentation of measurements underlying the allocation between the calculation referred to in paragraph 5, as well as documentation on the calculation of the taxable quantity of emissions from domestic aviation and domestic ferry services.

Reference is also made to points 3.2.4 and 3.2.8 of the general comments on the draft Act.

Re Section 7

It is proposed in *paragraph 1, first sentence*, that registered companies must keep accounts of greenhouse gas emissions in Denmark in accordance with the accounting rules laid down in Sections 5 and 6 and the rules of the trading scheme. It is proposed in the *second sentence* that registered companies must, on request, provide the Tax Administration with evidence of this.

This will mean that the accounts will have to comply with the applicable regulations established under Section 21 of the CO_2 Allowances Act on, inter alia, the monitoring, verification and reporting of greenhouse gas emissions covered by the CO_2 Allowances Act, including rules issued pursuant to the Act or EU acts on matters covered by the Act. The reference to the rules of the trading scheme results in the same requirement as regards compliance with the rules of the trading scheme for aviation and maritime transport in cases where companies are required to report emissions and submit allowances in another Member State of the European Union and which are therefore not covered by the CO_2 Allowances Order.

This will also mean that the company will have to keep accounts of greenhouse gas emissions in a way that can be calculated in accordance with the rules in Sections 5 and 6, including a separate calculation of emissions from mineralogical processes, metallurgical processes, chemical reduction and electrolysis, domestic ferry services and domestic aviation.

It is proposed in *paragraph 2* that companies must keep accounting data, including invoices, copies of invoices, accompanying documents, statements, etc., for 10 years after the end of the financial year.

This will mean that registered companies, etc., will store the accounting data in accordance with Part 4 of the Accounting Act on the storage of accounting data. The obligation to keep the accounting data corresponds to the obligation laid down in Section 12(1), first sentence, of the Accounting Act, according to which companies must keep accounting data securely for five years from the end of the financial year to which they relate. It also follows from Section 92(1) of Order No 1435 of 29 November 2023 on value added tax that companies must keep accounts, accounting records and other accounting data, including order books, production slips, inventory lists, etc., and the annual stock statement for five years after the end of the financial year in question. However, for accounting data relevant to calculations under Sections 5 and 6 of the Emissions Tax Act, the obligation is proposed to be extended to 10 years, given the longer obligation to keep relevant data and information under the trading scheme.

In addition, in accordance with Article 67(1) of the MR Regulation, companies are required to keep records of all relevant data and information, including information

as listed in Annex IX of the Regulation, for at least 10 years.

It is proposed in *paragraph 3* that the Tax Administration may lay down detailed rules for the accounting of companies in accordance with paragraph 1.

The Tax Administration may therefore, for example, lay down rules on how the company is to keep accounts of calculations pursuant to Sections 5 and 6.

Reference is also made to point 3.2.6 of the general comments on the draft Act.

Re Section 8

Under the trading scheme, CO_2 emissions from trading activities are calculated on an annual basis. Emissions from stationary installations and aviation must therefore be accounted for and verified by 31 March at the latest, and allowances must be surrendered by no later than 30 September of each year for the previous year. Emissions from maritime transport must be accounted for and verified by 30 April at the latest and allowances must be surrendered by no later than 30 September of each year for the previous year.

Therefore, the final verified emissions for a calendar year are not known before 31 March for stationary installations and aviation, whereas they are not known before 30 April for maritime transport.

The Tax Collection Act shall apply to taxes and duties listed in Annex 1, Lists A and B of the Act. The Tax Collection Act shall determine the time of declaration of the tax and the due date, cf. Section 2, and the requirements for the declaration, cf. Section 3. The Tax Collection Act also contains provisions on consequences in the event of failure to declare, including provisional determinations, withdrawal of registration, orders and daily fines, cf. Sections 4 and 4a.

There are also rules on the payment of taxes in the event of a false declaration, cf. Section 5, on the Tax Administration's decision on companies' obligation to use auditors when preparing accounts, cf. Sections 5a–5g, fees for reminders, cf. Section 6, payment of interest in the event of failure to make payment in due time or deferral of payment, cf. Section 7, and special exemptions from payment of, for example, interest, cf. Section 8.

The Tax Collection Act also contains rules in Part 4 on liability, etc., in Part 5 on one tax account, in Part 5a on notification and registration and in Part 6 on penalties and sanctions. Therefore, it follows from Section 16, No 1, of the Tax Collection Act that taxes and duties for which there is a requirement to register will have to be paid to the tax account.

It is proposed in *Section 8(1), first sentence,* that, at the end of each tax period, cf. Section 5, registered companies must declare and pay tax pursuant to Section 2 of the provisionally calculated quantity of greenhouse gas emissions, cf. Section 5(2–4), to the Tax Administration. It is proposed in the *second sentence* that declaration and payment must be made no later than the 15th day of the first month following the end of the tax period. It is proposed in the *third sentence* that where the last due date for the declaration is a bank holiday, the very next business day shall be deemed to be the last due date for the declaration.

As a result, registered businesses will have to declare and pay tax for the tax period on a monthly basis to the Tax Administration.

Companies registered under Section 4(1–3) will therefore have to declare, at the end of each month, the provisional quantity of the greenhouse gas emissions on which tax is due, cf. Section 5, and the quantity of the tax calculated in accordance with the rates specified in Section 2. The calculation and declaration of the tax will have to be made in accordance with Sections 5 and 6 and with the MR and MRV Regulations.

It is proposed in *Section 8(2), first sentence,* that the declaration and payment referred to in paragraph 1 shall be made in accordance with the rules laid down in the Tax Collection Act. It is proposed in the *second sentence* that, at the end of the calendar year, a final adjustment of the tax liability is made, cf. Section 9.

Registered companies will have to declare and pay tax in accordance with the rules laid down in the Tax Collection Act.

It follows from Section 2(1), first and second sentences, of the Tax Collection Act that the settlement and tax period is the calendar month. The tax must be declared by the 15th day of the first month following the end of the tax period, cf. Section 2(2) of the Tax Collection Act. The tax will become due on the first day of the month in which the declaration will have to be submitted and will have to be paid before the deadline for declaration, cf. Section 2(4) of the Tax Collection Act. Declarations under Section 2 will have to be signed by the company's responsible management, cf. Section 3 of the Tax Collection Act.

If the Tax Administration has not received a declaration for a settlement period after the deadline for delivery has passed, the Tax Administration will be able to set the company's tax liability provisionally at an estimated amount. For the payment of the estimated amount, the payment deadline used for timely declaration or reporting shall apply, cf. Section 4(1) of the Tax Collection Act.

The company will have to pay a fee of DKK 800 for a provisional determination, cf. Section 4(2) of the Tax Collection Act. In addition, Section 4(3) stipulates that the Tax Administration may withdraw a company's registration if a company has, for four consecutive accounting periods for the same registration condition, received a provisional determination of the company's tax and

duty liability, etc. The Tax Administration may also withdraw the company's other registrations if the Tax Administration considers that the company will not be able to continue without the registration condition, which is withdrawn.

The Tax Administration will also be able to order the taxable entity to comply with the provisions laid down in Section 2(1) and (2) and impose daily fines on the taxable entity in accordance with Section 18a until the order is complied with, cf. Section 4a of the Tax Collection Act.

In addition, the rules of the Tax Collection Act on the payment of taxes in the event of a false declaration, cf. Section 5, on the Tax Administration's decision on undertakings' obligation to use auditors when preparing accounts, cf. Sections 5a–5g, fees for reminders, cf. Section 6, payment of interest in the event of failure to make payment in due time or deferral of payment, cf. Section 7, and special exemptions from payment of, for example, interest, cf. Section 8, will also apply to the Emissions Tax Act.

The rules of the Tax Collection Act in Part 4 on liability etc., in Part 5 on one tax account, in Part 5a on notification and registration and in Part 6 on penalties and sanctions will apply mutatis mutandis to the Emissions Tax Act. In this context, the tax under the proposed Sections 8 and 9 will have to be paid to the tax account, cf. Section 16, No 1, of the Tax Collection Act.

After the end of the calendar year, the final tax liability shall be calculated, cf. the proposed Section 9. In this context, the company shall declare the residual tax on the basis of the emissions for which tax is payable under Section 2.

Reference is also made to point 3.2.5 of the general comments on the draft Act.

Re Section 9

Under the trading scheme, CO_2 emissions are calculated from trading activities on an annual basis. Emissions from stationary installations and aviation must therefore be accounted for and verified by 31 March at the latest, and allowances must be surrendered by no later than 30 September of each year for the previous year. Emissions from maritime transport shall be accounted for and verified by 30 April at the latest and allowances shall be surrendered by no later than 30 September of each year for the previous year.

Therefore, the final verified emissions for a calendar year are not known before 31 March for stationary installations and aviation, whereas they are not known before 30 April for maritime transport.

The Tax Collection Act shall apply to taxes and duties listed in Annex 1, Lists A and B of the Act. The Tax Collection Act shall determine the time of declaration of the tax and the due date, cf. Section 2, and the requirements for the declaration, cf. Section 3. The Tax Collection Act also contains provisions on consequences in the event of failure to declare, including provisional determinations, withdrawal of registration, orders and daily fines, cf. Sections 4 and 4a.

There are also rules on the payment of taxes in the event of a false declaration, cf. Section 5, on the Tax Administration's decision on companies' obligation to use auditors when preparing accounts, cf. Sections 5a–5g, fees for reminders, cf. Section 6, payment of interest in the event of failure to make payment in due time or deferral of payment, cf. Section 7, and special exemptions from payment of, for example, interest, cf. Section 8.

The Tax Collection Act also contains rules in Part 4 on liability, etc., in Part 5 on one tax account, in Part 5a on notification and registration and in Part 6 on penalties and sanctions. Therefore, it follows from Section 16, No 1, of the Tax Collection Act that taxes and duties for which there is a requirement to register will have to be paid to the tax account.

It is proposed in *Section 9(1), first sentence*, that, at the end of each calendar year, registered companies must declare and pay any residual tax or declare excess tax in accordance with Section 2 to the Tax Administration. It is proposed in the *second sentence* that the residual tax consists of the amount by which the final tax liability in accordance with Section 6 may exceed the provisionally paid taxes, cf. Section 8. It is proposed in the *third sentence* that excess tax consists of the amount by which the final tax liability in accordance with Section 6 may be less than the provisionally paid taxes, cf. Section 8.

This will mean that, at the end of the calendar year, registered companies will have to calculate tax on the final calculation of the taxable quantity of emissions in accordance with Section 6 and calculate the difference between the tax and the provisionally paid tax under Section 8. If the amount of provisional tax paid is lower than that calculated as final tax, this residual tax will have to be declared and paid to the Tax Administration. If provisional tax has been paid more than that calculated as final tax, this excess tax will have to be declared to the Tax Administration.

A registered company will therefore have to calculate, immediately when the emissions report is submitted to the competent authority, the difference between the tax that can be calculated on the basis of the emissions report for a calendar year and the tax that will be regularly declared and paid to the Tax Administration for emissions in the same calendar year in accordance with Section 8.

Therefore, if a registered company calculates the final tax for a calendar year at DKK 550 000, and if tax totalling DKK 500 000 has been paid for the same calendar year, the registered company will have to declare the

residual tax of DKK 50 000 and pay tax in accordance with the proposed Section 9(1). In principle, payment will have to be made by offsetting against the declaration.

The rate of tax for the residual tax shall be that applicable in the year to which the claim relates.

Therefore, if a registered company calculates the final tax for a calendar year at DKK 550 000 and tax totalling DKK 600 000 has been paid for the same calendar year, the registered company will have to declare excess tax of DKK 50 000 in accordance with the proposed Section 9(1), which will be deducted from the declaration.

The tax rate applicable to the excess tax shall be that applicable in the year to which the claim relates.

It is proposed in *paragraph 2, first sentence,* that the declaration referred to in paragraph 1, first sentence, must be submitted each year to the Tax Administration as part of the ordinary declaration for April with a deadline for declaration of 15 May.

This will mean that registered companies under Section 4(1) and (2) will have to declare the residual tax or excess tax at the latest together with the ordinary declaration, cf. Section 8, for April with a deadline for declaration of 15 May.

The deadlines for declaration are set on the basis of the time limits laid down in the Emissions Trading Directive for the submission of an emissions report. Companies registered under Section 4(1) and (2) will have to submit an emissions report to the competent authority by 31 March at the latest each year, while companies registered under Section 4(3) will have to submit an emissions report to the administering authority by no later than 30 April each year.

It is proposed in the *second sentence* that where the last due date for the declaration is a bank holiday, the very next business day shall be deemed to be the last due date for the declaration

This will mean that where the last due date for the declaration is a bank holiday, the very next business day shall be deemed to be the last due date for the declaration.

It is proposed in *paragraph 3, first sentence,* that the tax shall become due on the first day of the month in which the declaration is to be submitted and must be paid before the deadline for declaration expires. It is proposed in the *second sentence* that declaration and payment are made in accordance with the rules of the Tax Collection Act.

As a result, the tax shall become due on the first day of the month in which the declaration will have to be submitted and will have to be paid before the deadline for declaration expires and the other provisions of the Tax Collection Act apply.

Declarations under Section 2 will therefore have to be signed by the company's responsible management, cf. Section 3 of the Tax Collection Act.

If the Tax Administration has not received a declaration for a settlement period before the expiry of the deadline for declaration, the Tax Administration will be able to set the company's tax liability provisionally at an estimated amount. For the payment of the estimated amount, the payment deadline used for timely declaration or reporting shall apply, cf. Section 4(1) of the Tax Collection Act.

The company will have to pay a fee of DKK 800 for a provisional determination, cf. Section 4(2) of the Tax Collection Act. The Tax Administration will also be able to withdraw a company's registration if, for four consecutive settlement periods for the same registration condition, a company has received a provisional determination of the company's tax and duty liability, etc., cf. Section 4(3) of the Tax Collection Act. The Tax Administration may also withdraw the company's other registrations if the Tax Administration considers that the company will not be able to continue without the registration condition, which is withdrawn.

The Tax Administration may order the taxable entity to comply with the provisions laid down in Section 2(1) and (2) of the Tax Collection Act and impose daily fines on the taxable entity pursuant to Section 18a of the Tax Collection Act until the order is complied with, cf. Section 4a of the Tax Collection Act.

In addition, the rules of the Tax Collection Act on the payment of taxes in the event of a false declaration, cf. Section 5, on the Tax Administration's decision on undertakings' obligation to use auditors when preparing accounts, cf. Sections 5a–5g, fees for reminders, cf. Section 6, payment of interest in the event of failure to make payment in due time or deferral of payment, cf. Section 7, and special exemptions from payment of, for example, interest, cf. Section 8, will also apply to the Act.

The rules of the Tax Collection Act in Part 4 on liability etc., in Part 5 on one tax account, in Part 5a on notification and registration and in Part 6 on penalties and penalties will apply mutatis mutandis to the Act. In this context, the tax under Sections 11 and 12(1) and (2) will have to be paid to the tax account, cf. Section 16, No 1, of the Tax Collection Act.

Re Section 10

It is proposed in *paragraph 1, first sentence,* that the Tax Administration shall at any time, upon providing appropriate identification and without a court order, have the right to inspect companies subject to registration, and to inspect the companies' inventories, professional books, other accounting data, emissions and verification reports, other information covered by the trading scheme and correspondence, etc. It is proposed in the *second sentence* that in so far as this data is recorded electronically,

the Tax Administration's access also includes electronic access to this.

This will mean that the Tax Administration will be able to carry out inspections at the premises of the companies covered by the provision if it is considered necessary for the monitoring of compliance with the Act, for example because the companies have not complied with a request from the Tax Administration to provide information under the proposed provision in Section 10(3).

It follows from the proposed provisions in Section 4(1–3) that companies which have taxable emissions, cf. Section 1, must register with the Tax Administration.

In the case of companies which are not registered under the proposed provisions of Section 4(1–3), but there is a presumption that the companies are subject to registration under these provisions, these companies will also be covered by the proposed provision in Section 10.

Similarly, companies which are presumed by the Tax Administration to run unregistered activities and which have taxable emissions will be covered. For example, a presumption that unregistered activities are being run may exist where the company was previously registered but the registration has been withdrawn, or if the company is covered by the trading scheme without being registered under the Emissions Tax Act.

During the inspection, the Tax Administration will have access to the companies' business premises and other premises used for the operation of the taxable activities.

The Tax Administration will have to ensure that the verification visit does not prevent the company from carrying out its day-to-day activities. In addition, it will be necessary to ensure that company visits are carried out with the prior agreement and cooperation of the company. Unannounced verification visits should therefore be possible only if it is considered that the purpose of the inspection could be affected negatively by a prior warning.

The inspection will, in principle, be announced and will be carried out in agreement between the company and the Tax Administration, which will also make it easier for the company to find the necessary and relevant material. This agreement will also cover whether the inspection is to be carried out by submitting material or by visiting the company.

During a verification visit, the Tax Administration will have to provide appropriate identification. The proof identity will have to indicate who the person concerned is and that they represent the Tax Administration. The verification visit may be carried out without a court order.

Under the provision, the Tax Administration will have the right to inspect inventories, approved monitoring plans, emissions reports under Article 14 of the Emissions Trading Directive, calculations produced in accordance with the rules laid down pursuant to this Act and other information on the company's taxable emissions, verification reports, other information covered by the MR Regulation and the MRV Regulation, professional books, other accounting data and correspondence, etc. Whether the Tax Administration has access to the material will depend on whether the material is relevant to the monitoring of compliance with the Act.

The Tax Administration's inspections will not concern checks on whether emissions from trading activities have been correctly calculated in the verified emissions reports, as the Danish Energy Agency and competent authorities in other Member States have such jurisdiction based on the rules of the trading scheme.

As a result of what is being proposed, the Tax Administration will have access to material available in electronic form and to review the entries in the company's systems on site.

The Tax Administration will not be able to connect its own IT equipment to the company's equipment during an inspection under the proposed provision in Section 10(1) if the company does not grant permission to do so. In such a case, the Tax Administration must gain access only through the company's systems and either have the material printed on paper or obtain an electronic copy, for example on an encrypted USB stick. The Tax Administration will not be able to include original physical material without the company's consent. This would involve seizures, which, under the proposed provision, must be carried out in accordance with the rules of the Administration of Justice Act and require the intervention of the police and the courts.

On an exceptional basis, personal data may be included in the material relevant to the inspection and which the Tax Administration therefore has the right to consult. The collection of personal data of, for example, employees relevant to the inspection could be carried out if they comply with the rules of the General Data Protection Regulation, but Article 14 of the General Data Protection Regulation requires the employee to be informed by the Tax Administration of the collection (registration) of the data. If personal data are contained in the material relevant to the control and which the Tax Administration therefore has the right to consult, they can only be collected in compliance with the rules of data protection legislation.

The provisions of Section 10 are intended to ensure that the Tax Administration can carry out checks on compliance with the Act. The Danish Energy Agency and other competent authorities shall check the calculations on which emissions reports are based, etc.

It is proposed in *paragraph 2* that owners of companies referred to in paragraph 1 and persons employed by them must provide the Tax Administration with the nec-

essary guidance and assistance in carrying out the inspections referred to in paragraph 1.

The provision will mean that all employees will in principle have an obligation to provide guidance and assistance to the Tax Administration during inspections. Normally, there will be no suspicion that any criminal offence is taking place when the Tax Administration carries out an inspection.

The Tax Administration will have to comply with Section 9 of the Consolidation Act on Legal Protection and Administration in Social Matters on the relationship with criminal procedure when implementing coercive measures and Section 10 on the prohibition of self-incrimination.

Section 10(1) of the Consolidation Act on Legal Protection and Administration in Social Matters prohibits self-incrimination. If, in the course of a verification visit of the company carried out under the proposed provision, a definite suspicion arises that the company has committed an offence, the owner of the company and the persons employed in the company will not be obliged to provide information to the Tax Administration under Section 10(1) of the Consolidation Act on Legal Protection and Administration in Social Matters, unless it can be ruled out that the information sought may be relevant to the assessment of the alleged offence.

The Tax Administration must provide guidance to a suspect, advising that they are not obliged to provide information which may be relevant to the assessment of the suspected offence. If the suspect gives consent to provide information, the rules in Section 9(4), second and third sentences, shall apply mutatis mutandis, cf. Section 10(3) of the Consolidation Act on Legal Protection and Administration in Social Matters.

It is clear from the comments to the Consolidation Act on Legal Protection and Administration in Social Matters, cf. the Folketing Hansard 2003–04, Appendix A, page 3076ff., that the prohibition of self-incrimination covers the legal person as such, i.e. any natural person associated with the legal person, for example, its employees. On the other hand, for employees of sole proprietorships, identification with the company is not carried out, so they will not be exempted from the obligation to provide information, but will be obliged to provide information to the extent that the information is sought for the purpose of dealing with matters other than the determination of penalties, cf. Section 10(2) of the Consolidation Act on Legal Protection and Administration in Social Matters.

It is proposed in *paragraph 3* that the information referred to in paragraph 1 must, at the Tax Administration's request, be provided or submitted to it.

The proposed provision will mean that the companies covered by the Act will have to submit to the Tax Administration, at the latter's request, the information referred to in the proposed provision in Section 10(1).

Companies will be required to submit information regardless of whether the request is submitted after a verification visit carried out in accordance with the proposed provision in Section 10(1) at the premises of the companies or without such a verification visit being carried out prior to the request.

In the case of companies which are not registered under the proposed provisions of Section 4, but there is a presumption that the companies are subject to registration under these provisions, these companies will also be covered. Similarly, companies will be covered by the provision if the Tax Administration has a presumption that the company is running unregistered activities. For example, a presumption that unregistered activities are being run may exist where the company has previously been registered but the registration has been withdrawn and the Tax Administration possesses information that suggests that the activities have continued or resumed after the registration withdrawal, for example if the company continues to run activities under the CO_2 trading scheme.

A request for information will need to be specified. The Tax Administration will have to clarify the purpose of the notice requesting materials and there will be a definite presumption that the material requested will be relevant to the monitoring of compliance with the provisions of the Act. The Tax Administration will have to explain that there is a lack of relevant information necessary for a given purpose and that the Tax Administration will expect to find this information in the requested documents. A requirement for a definite presumption helps to ensure that companies are not asked to provide irrelevant material, but that the Tax Administration merely requests information that is relevant and necessary for the handling of the case.

The Tax Administration's inspection will have to be carried out in accordance with the rules laid down in the Consolidation Act on Legal Protection and Administration in Social Matters. It follows, inter alia, from Section 9 of the Consolidation Act on Legal Protection and Administration in Social Matters that, where an individual or legal person is reasonably suspected of having committed a criminal offence, coercive measures against the suspect in order to obtain information on the suspected offence(s) may be implemented only in accordance with the rules laid down in the Administration of Justice Act. However, this shall not apply where the coercive measure is implemented in order to provide information for the purpose of dealing with matters other than the determination of penalties. It also follows from Section 10 of the Consolidation Act on Legal Protection and Administration in Social Matters that a citizen or company is not obliged to provide information to an authority if there is a definite suspicion that the citizen or company has committed a criminal offence. Section 10 of the Consolida-

tion Act on Legal Protection and Administration in Social Matters covers cases where the legislation, etc. imposes a duty to disclose information to a public authority. This is the case whether an infringement of the obligation to provide information can be penalised by sanctions or enforced by the imposition, for example, of daily fines.

It is proposed in *paragraph 4* that public authorities are required, on request, to disclose to the Tax Administration any information necessary for the registration and control of companies covered by the Act.

This will mean that the Tax Administration may ask other public authorities to provide information for the registration and control of companies covered by the Act. These public authorities will have to provide information that the Tax Administration will need to use for these purposes. This may include, inter alia, the Danish Energy Agency and the Danish Maritime Authority.

It is proposed in *paragraph 5* that, where necessary, the police should provide assistance in carrying out inspections in accordance with paragraph 1.

The provision will result in the police being able, if necessary, to assist the Tax Administration in carrying out the inspection in accordance with the proposed provision in Section 10(1) if the company refuses to give the Tax Administration access to the company's premises, etc.

Police assistance under the provision will be limited to overcoming physical obstacles to carrying out inspections, such as gaining access to a locked room. The inspection itself will have to be carried out by employees of the Tax Administration. Assistance by the police will have to be provided in accordance with the rules laid down in the Act on Police Activities (hereinafter 'the Police Act'). The assistance provided by the police to other authorities, like the other tasks carried out by the police, will be subject to the prioritisation of resources by the police. The police may therefore, where appropriate, refuse a specific request to provide assistance to another authority on the grounds of being able to carry out more urgent tasks, cf. Section 2(1)(6) of the Police Act. If, at the time of the police's assistance with the verification visit by the Tax Administration, a specific suspicion of a criminal offence exists or arises, including criminal proceedings, which can be dealt with administratively, the assistance of the police in carrying out the inspection will have to be provided in accordance with the rules of the Administration of Justice Act when the assistance is of an investigatory nature.

It is proposed in *paragraph 6, first sentence*, that registered companies which supply emissions reports, etc. concerning taxable emissions to a competent authority in another country must notify the Tax Administration if the competent authority makes a decision on greenhouse gas emissions or activity level. It is proposed in the *second sentence* that notification must be given no later than one month after the decision is issued by the authority. It is proposed in the *third sentence* that, if the decision is relevant to the tax liability, this relevance must be disclosed at the same time to the Tax Administration.

This will mean that registered companies will have to keep the Tax Administration informed of any facts which are or may be relevant for the tax liability, including changes to the tax base.

It should be noted that in such cases where a registered company's emissions report is amended, including if it is the competent authority that decides to do so, the registered company will have to make a new declaration in accordance with Section 9 of the final quantity of emissions under Section 6. This will have to be done in accordance with the rules laid down in the Customs and Tax Administration Act and regardless of whether there is a change of assessment as a result of a foreign authority's or the Danish Energy Agency's decision on a modified emissions report.

Reference is also made to points 3.2.6 and 3.2.7 of the general comments on the draft Act.

Re Section 11

It is proposed in *paragraph 1* that, if the registered company has not declared tax in due time, cf. Sections 8 and 9, the Tax Administration may impose daily penalty payments.

The aim of the proposed provision is to enable the Tax Administration to use daily penalty payments as a means of exerting pressure to force registered companies to declare and pay the tax.

'In due time' shall mean the deadline specified in Sections 8 and 9.

Responsibility for declaring and paying tax shall lie with the individual company which is subject to registration under Section 4.

Daily penalty payments would not be a criminal sanction, but a means of seeking to enforce an obligation to act. Daily penalty payments could be granted for each calendar day, i.e. 7 days a week. A penalty payment will have to be at least DKK 1 000 per day and the determination of the amount of the penalty payment will have to take into account the financial capacity of the entity required to report, so that the penalty payment will have the intended effect. The daily penalty payments may be increased by written notice if a penalty payment already imposed has not been successful. This would correspond to the general practice of penalty payments in tax legislation

Once the registered company has declared and paid tax in accordance with Sections 8 and 9, any penalty payment that has not been paid shall be cancelled. Penalty payments already paid will not have to be repaid.

The proposed paragraph 1 will mean that if the Tax Administration has not received a declaration and payment of the tax in due time, the Tax Administration will be able to send a reminder. The reminder will have to state that if no declaration and payment are made within a deadline specified in the reminder, the Tax Administration will impose daily penalty payments for each the delay lasts.

It will depend on the Tax Administration's assessment whether, having regard to the specific circumstances of the individual case, daily penalty payments should be applied. The assessment may include, inter alia, whether there are excusable circumstances in the case of failure to declare in due time and whether the same company has previously failed to provide information in due time.

It is proposed in *paragraph 2* that if a request for information under Section 10(3) to a company registered or subject to registration is not complied with, the Tax Administration may order that the information be submitted within a specified deadline and impose daily penalty payments from when the deadline is exceeded until the order is complied with.

Under the proposed provision in Section 10(3), the Tax Administration will be able to ask the registered company to submit material for verification of the company's tax liability.

The proposed provision will mean that, where a request for information under Section 10 has not been complied with, the Tax Administration will be able to issue an order to provide the information requested. If the order is not complied with before the expiry of a deadline specified in the order, the Tax Administration may apply daily penalty payments until the order is complied with.

The practice in terms of the amount of the penalty payments, etc. described above in the comments on the proposed provision in Section 11(1) will apply mutatis mutandis in relation to the proposed provision in Section 11(2).

It will depend on the Tax Administration's assessment whether, having regard to the circumstances of the case, daily penalty payments or fixed penalty notices should be applied. The assessment may include, inter alia, whether there are excusable circumstances in the case of failure to declare in due time and whether the same company has previously failed to provide information in due time.

Reference is also made to point 3.2.7 of the general comments on the draft Act.

Re Section 12

It is proposed in *paragraph 1(1)* that a fine should be imposed on any entity which, intentionally or through gross negligence, provides false or misleading information or conceals information for the purposes of the tax inspection.

'False' means that a piece of information is untrue and contrary to the facts. 'Misleading' means that the information may, to some extent, be accurate, but that the information as a whole is still insufficient to give a complete picture of the facts.

The provision of false or misleading information may, for example, take place in connection with the provision of information pursuant to the proposed provisions of Sections 8 or 9. However, penalties under the proposed Section 12(1)(1) would not presume that the false or misleading information has been provided in this context. False or misleading information relevant to the tax inspection, provided, for example, before the declaration, would therefore also be covered by the provision. In those cases, the criminal offence will have materialised once the information has been received by the Tax Administration.

The concealment of information could, for example, occur if the company concerned has completely failed to make a declaration. In this case, the situation would also be covered by the proposed provision in Section 12(1)(3) and the objective constituent elements will be realised once the deadline for the declaration is exceeded.

The proposed provision in Section 12(1)(1) will apply only in cases where the infringement is committed as part of tax evasion. The level of penalties required is therefore described in more detail below in the description of Section 12(3), which concerns infringements committed with intent to evade tax.

It is proposed in *Section 12(1)(2)* that a fine should be imposed on any entity which, intentionally or through gross negligence, infringes Section 2(5), Section 4(1–3), Section 7(1) or (2) or Section 10(2), (3) or (6).

The proposed provision refers to Section 2(5), which concerns the obligation to report the value of tax relief if the amount exceeds EUR 100 000 in a calendar year, Section 4(1–3), which concerns the obligation to register with the Tax Administration if a company has taxable emissions, Section 7(1) and (2), which concerns the obligation to keep accounts of taxable emissions, Section 10(2), which concerns the obligations of the company, the owner and the employees in connection with their verification by the Tax Administration, Section 10(3), which concerns the company's obligation to provide material referred to in Section 10(1) at the request of the Tax Administration, and Section 10(6), which concerns obligations for companies which provide emissions reports, etc. to competent authorities in other countries, to notify the Tax Administration of relevant facts.

The proposed provision will result in companies which, intentionally or through gross negligence, fail to comply with the obligations laid down in Sections 2(5), 4(1–3), 7(1) or (2) or 10(2), (3) or (6) to be punishable by a fine.

The case may therefore be closed administratively by the Tax Administration with a fixed penalty notice if the conditions for doing so are otherwise met, see, in this regard, the comments to Section 13 of the draft Act below.

The draft Act assumes that an infringement of these provisions will be punishable by a fine in the order of DKK 10 000. This is because the provision, taken in isolation, is a statutory provision by nature.

However, in the circumstances, an infringement of the provisions could occur in the context of tax evasion. If this is the case, the infringement will be covered by the sanctions practice described in more detail in the comments to the proposed Section 12(3) below.

It is proposed in *Section 12(1)(3)* that any entity which, intentionally or through gross negligence, fails to make a declaration in due time, cf. Section 8 or Section 9 (1) and (2), is punishable by a fine.

Under the proposed provision in Section 8, registered companies will have to declare, at the end of each tax period, a provisional quantity for greenhouse gas emissions, for which the company will have to pay tax for the tax period to the Tax Administration.

Under the proposed provision in Section 9(1), registered companies will be required, at the end of the calendar year, to calculate the final tax liability and declare the residual tax on the basis of the verified greenhouse gas emissions for which tax will be payable, and pay the residual tax for the calendar year to the Tax Administration.

Under the proposed provision in Section 9(2), the declaration will have to be submitted to the Tax Administration by no later than 15 May of each year.

The provision in paragraph 1(3) will mean that any entity which, intentionally or through gross negligence, fails to declare their tax in due time in accordance with Sections 8 and 9(1) and (2) will be liable to a fine. The case may therefore be closed administratively by the Tax Administration with a fixed penalty notice if the conditions for doing so are otherwise met, see, in this regard, the comments to Section 12 of the draft Act below.

The draft Act assumes that an infringement of these provisions will be punishable by a fine in the order of DKK 10 000. This is because the provision, taken in isolation, is a statutory provision by nature.

However, in the circumstances, an infringement of the provisions could occur in the context of tax evasion. If this is the case, the infringement will be covered by the sanctions practice described in more detail in the comments to the proposed Section 12(3) below.

Determination of the penalty will continue to be based on the specific assessment of all the circumstances of the case by the courts in the individual cases, and the stated level of penalties can be altered upwards or downwards if in the specific case there are aggravating or mitigating circumstances, cf. the general regulations on the determination of the penalty in Part 10 of the Criminal Code.

It is proposed in *paragraph 2* that regulations issued pursuant to this Act may provide for a fine for any entity which, intentionally or through gross negligence, infringes the provisions of the regulations.

It follows from the proposed Section 2(6) that the Minister for Taxation shall lay down detailed rules on the reporting and publication of information reported under paragraph 5 and information on the company's name, type of company, CVR number, amount and date of the allocation. The Minister for Taxation shall also lay down detailed rules stipulating that companies may not apply the tax rate referred to in paragraph 3 if they do not meet the conditions for receiving State aid at all times.

It follows from the proposed Section 5(6) that the Minister for Taxation may lay down rules on documentation for the calculation of the taxable quantity of greenhouse gas emissions under paragraphs 1–4.

It follows from the proposed Section 6(4) that the Minister for Taxation may lay down rules on documentation for the calculation of the taxable quantity of greenhouse gas emissions to be declared in accordance with paragraphs 1–3. It also follows from the proposed Section 6(6) that the Minister for Taxation may lay down rules on documentation for the calculation of the taxable quantity of greenhouse gas emissions to be declared in accordance with paragraph 5.

It follows from the proposed provision in Section 7(3) that the Tax Administration may lay down detailed rules on the accounting of companies under paragraph 1.

The provision in Section 12(2) will have the effect that regulations adopted on the basis of Sections 2(6), 5(6), 6(4) and (6), and 7(3) may impose a fine on any entity which, intentionally or through gross negligence, infringes provisions of the regulations. A case concerning an infringement of the provisions may be closed administratively by the Tax Administration with a fixed penalty notice if the conditions for doing so are otherwise met, see, in this regard, the comments to Section 13 of the draft Act below.

The draft Act assumes that infringements of provisions in the regulations will be punishable by a fine of DKK 10 000.

It is proposed in *paragraph 3* that any entity which commits one of the infringements referred to in paragraph 1 with intent to evade tax in relation to the public authorities is punishable by a fine or imprisonment of up to one year and six months, unless a more severe penalty is required under Section 289 of the Criminal Code.

The reference to Section 289 of the Criminal Code would mean that qualified offences, that is to say particularly serious offences, would be punishable under that provision, where the penalty is imprisonment of up to eight years.

The draft Act assumes that the sanctioning practice applicable to infringements committed in the context of tax evasion will have to be equivalent to the current sanctions practice applicable to infringements committed in the context of evasion of payment of taxes.

First, it is assumed that a penalty in the form of imprisonment may be imposed in the case of intentional evasion by natural persons amounting to DKK 500 000 or more. The case will then have to be referred to the police for court proceedings. Tax evasion involving DKK 500 000 or more would, in principle, fall within the scope of Section 289 of the Criminal Code, concerning particularly serious infringements of, inter alia, tax legislation, where the penalty is up to eight years' imprisonment.

In other cases of evasion, a fine may be imposed, see, in this regard, the standard fines below. This applies to cases where a natural person has intentionally evaded an amount lower than DKK 500 000, where a natural person has evaded through gross negligence or where the evasion was committed intentionally or through gross negligence by a legal person. In these cases, the case may be closed administratively by the Tax Administration with a fixed penalty notice if the conditions for doing so are otherwise met, see, in this regard, the comments to Section 13 of the draft Act below.

It is assumed that the threshold for intentional evasion by natural persons of DKK 500 000 will not apply in the event of a repeat infringement.

In the event of a repeat infringement, it is assumed that if the natural person concerned intentionally evades taxes or duties in excess of DKK 250 000 and the person concerned has previously been penalised for evading taxes or duties in excess of DKK 250 000, they will be liable for imprisonment and an additional fine equal to twice the amount evaded. This will apply regardless of whether a prison sentence is imposed pursuant to this Act or pursuant to Section 289 of the Criminal Code. In such a situation, the infringement would therefore constitute a repeat infringement, with a lower threshold for imprisonment.

The repeat infringement status will cease where, before the new criminal offence was committed, 10 years have elapsed after the previous sentence has been served, definitively waived or cancelled. Where the previous penalty is a financial penalty, the said deadline shall begin to run from the date of the final judgment or of the acceptance of the fine. In the case of conditional sentences, the time limit shall be calculated from the final judgment. This follows from Section 84(3) of the Criminal Code.

Second, it is assumed that, in addition to a term of imprisonment, a fine equal to twice the amount of the evasion is imposed. In cases involving attempted evasion, cf. Section 21 of the Criminal Code, the fine will have to be equal to the amount evaded.

Third, it is assumed that, in tax evasion cases which cannot be penalised in the form of imprisonment, a normal fine is imposed. The normal amount of the fine will be one time the amount evaded in the case of infringements committed through gross negligence and twice the amount evaded in the case of infringements committed intentionally.

Fourth, it is assumed that for first-time offences, more than DKK 40 000 would have to be evaded before a tax evasion case can be brought. The required minimum threshold will have to be applied regardless of whether the evasion was committed intentionally or through gross negligence.

In cases of evasion, where the evasion does not exceed DKK 40 000 but exceeds DKK 20 000, an estimated fine of DKK 5 000 could be imposed for first-time offences, irrespective of whether it was committed intentionally or through gross negligence.

Determination of the penalty will continue to be based on the specific assessment of all the circumstances of the case by the courts in the individual cases, and the stated level of penalties can be altered upwards or downwards if in the specific case there are aggravating or mitigating circumstances, cf. the general regulations on the determination of the penalty in Part 10 of the Criminal Code.

It is proposed in *paragraph 4* that companies, etc. (legal entities) are subject to criminal liability pursuant to the provisions of Part 5 of the Danish Criminal Code.

The proposed provision would result in the imposition of criminal liability on legal persons for infringement of the provisions of this Act.

Reference is also made to point 3.2.7 of the general comments on the draft Act.

Re Section 13

Section 18 of the Tax Collection Act concerns the possibility for the Tax Administration to close the criminal proceedings administratively with a fixed penalty notice. It follows from Section 18(1), first sentence, that if an infringement is deemed not to result in a penalty higher than a fine, the Tax Administration may indicate to the relevant party that the case may be settled without legal proceedings if said party pleads guilty to the infringement and declares that it is prepared to pay, before the expiry of a specified deadline, which may be extended upon application, a fine specified in the declaration. It follows from the second sentence that Section 752(1) of

the Administration of Justice Act applies mutatis mutandis.

It follows from Section 19 of the Tax Collection Act that searches in cases of infringement of provisions of the Tax Collection Act are carried out in accordance with the rules of the Administration of Justice Act on searches in cases which, under the Act, may give rise to a custodial sentence.

It is proposed in Section 13 that the rules in Sections 18 and 19 of the Tax Collection Act apply mutatis mutandis to cases of infringement of this Act.

Similar provisions apply under the other excise duty laws.

This means, inter alia, that if an infringement does not result in a penalty higher than a fine, the proceedings may be closed administratively without legal proceedings if the relevant party concerned admits its guilt and pays the prescribed fine. There will be no further proceedings if the fine is paid or a sentence is served instead. Debts owed to the public authorities are recovered by the arrears recovery authority in accordance with the rules on the matter under the Act on the recovery of debts to the public authorities, which means that a deduction in wages may be made for natural persons or distraint may also be carried out.

Section 752 of the Administration of Justice Act will apply to cases which are closed administratively, cf. Section 18(1), second sentence, of the Tax Collection Act.

Searches will have to be carried out in accordance with the Administration of Justice Act, cf. Section 19 of the Tax Collection Act.

Re Section 14

It is proposed in *paragraph 1* that the Act enter into force on 1 January 2025, without prejudice to paragraph 2.

This will mean that the Emissions Tax Act will enter into force on 1 January 2025, without prejudice to paragraph 2, and the parts of the Green Tax Reform Agreement, etc. implemented by the Act will enter into force on 1 January 2025.

It is proposed in *paragraph 2* that the Minister for Taxation determines the date of entry into force of the proposed Sections 2(3–6) and 6(5) and (6).

Section 2(3) sets the lower rate for mineralogical processes, etc. (i.e. mineralogical processes, metallurgical processes, chemical reduction and electrolysis covered by Annex 2). The amendment means that the low rate for mineralogical processes, etc. will only apply when the Minister for Taxation puts this part of the Act into force. This is because the reduced rate provided for in Section 2(3) constitutes State aid within the meaning of Article 107 TFEU, which must be notified to the Commission pursuant to Article 108 TFEU and in application of the Commission's Guidelines on State aid for climate, environmental protection and energy 2022 (2022/C 80/01), as amended, and which requires the approval of the European Commission. Reference is also made to point 10.1 of the general comments on the draft Act.

Section 2(4) concerns the indexation of the rate in Section 2(3). Section 2(5) and (6) concerns the requirement for companies to report State aid paid under Section 2(3) if the value of the tax reduction exceeds EUR 100 000, as well as the Minister for Taxation's legal basis to lay down detailed rules in this regard, and to lay down rules to the effect that companies cannot benefit from the low tax rate if they do not meet the conditions for receiving State aid at any time.

Section 6(5) concerns the duty of companies to produce a separate calculation of emissions relating to mineralogical processes, etc., Section 6(6) concerns the Minister for Taxation's legal basis to lay down rules on documentation for the calculation of the taxable greenhouse gas emissions to be declared in accordance with paragraph 5.

Consequently, it follows from the provisions that the low tax rate for mineralogical processes, etc., as provided for in Section 2(3) of the draft Act, can only be applied when the Minister for Taxation determines the date of entry into force by means of an order.

The reason for the proposed provision is that the lower rate constitutes State aid within the meaning of Article 107 TFEU and that the lower rate can only enter into force once the Commission has decided that the measure does not constitute incompatible State aid, known as the 'standstill obligation', see, in this regard, point 10 of the general comments on the relationship with EU law.

It should be noted that the Green Tax Reform Agreement contains different phase-in profiles of the emissions tax rates until 2030 for the general rate of DKK 375 and the low rate for mineralogical processes, etc. of DKK 125 (2022 prices). This means that it is only in 2026 that the general tax rate will exceed the rate applicable to mineralogical processes, etc., so it is only from 2026 that the low rate becomes a tax reduction.

Reference is also made to point 3.2.8 of the general comments on the draft Act.

Re Section 15

It is proposed that the Act should not apply to the Faroe Islands and Greenland.

The proposed delimitation of the scope of the Act is due to the fact that the issues have been taken over by the Faroe Islands and Greenland and the Act should therefore neither apply nor be able to be applied to the Faroe Islands and Greenland.