

The new Shipping Tax System Law aims to put Cyprus Shipping ahead

Introduction

The new Shipping tax legislation has been officially approved by the European Commission and is in full compliance with the relevant guidelines on State Aid to Maritime Transport.

The new legislation:

- introduces Tonnage Tax System (TTS)

to ship

- owners
- charterers and
- managers

Of

- all flags

It is the first time that a TTS is approved for an EU Member State, a state with an open registry. The said scheme was approved for a 10 year period, which may be extended for a further period of 10 years. The provisions of the Law are applicable for the fiscal year 2010, starting on the 1st January 2010 and will be valid until December 2019.

TTS Main Elements and Eligibility Requirements

The new TTS covers the three main “Maritime Transport” activities offered in international Shipping today as follows:

1. Shipowning
2. Shipmanagement which splits into

- Crew Management and/or
- Technical Management

3. Chartering

who owns, charters or manages

- at least one EU Flag “Qualifying Ship” (Fleets should be comprising of either EU flag or “Mixed Fleets” comprising of EU and Non-EU flag ships)

used in a

- “Qualifying Shipping Activity”

Qualifying Ship

Is a Seagoing Vessel Certified under International or national rules, registered in an IMO/ILO country recognized by Cyprus.

The new TT Law excludes a number of vessels as following:

- Fixed Offshore Installations not used for maritime transport
- Non Self-Propelled Floating Cranes
- Stationary vessels employed for hotel and/or catering operations (floating hotels or restaurants)
- Vessels used primarily for sport or recreation
- Vessels employed mainly as casinos or gambling facilities
- Fishing and fish factory vessels
- Vessels constructed exclusively for inland waterway navigation
- Harbour, estuary and river ferries and tug boats
- Non-ocean-going tug boats

Qualifying Shipping Activity

Means any Commercial Business or Activity that constitutes “Maritime Transport” or “Crew or Technical Management”.

Maritime Transport

Includes (for the first time) Towing and Dredging Activities (with some conditions), Cable-Laying Activities and Ancillary Activities, such as Passenger Ship related Hotel, Catering, Entertaining and Retailing Activities, Cargo Loading and Unloading within ports and others.

Ship owners

There are three categories of ship owners eligible to be taxed under the TTS as follows:

1. Cyprus flag vessel which automatically fall within the scope of TTS

2. EU flag vessel

- provided that the ship owner is tax resident of Cyprus and
- has opted to be taxed under the TTS

3. Mixed fleet

- ship owners of EU and non-EU flag vessels
- provided that the ship owners are tax resident of Cyprus
- has opted to be taxed under TTS
- at least 60% of the fleet in terms of tonnage must comprise of EU flag vessels. If less than 60% then a share of the fleet must comprise of EU vessels and that share must not be reduced in the three year period (flag share requirement) following the exercise of the option and
- the commercial and strategic management of the fleet is carried out from the EU

Charterers

Any charterer who charters:

- a ship under bareboat
- demise charter
- time or voyage charter

is eligible to opt for TTS provided:

- that the ship charterer is a tax resident of Cyprus and
- the tonnage of the ships under time and/or voyage charters do not exceed 75% of the total tonnage of ships chartered and owned for more than 3 consecutive years. The eligibility percentage increases to 90% if the ships chartered are EU ships or their crew and technical management are carried out from the EU. The charterers of 3rd country flag ships must comply with the additional requirements that apply for 3rd country flag ship owners (i.e. flag share requirement).

Ship managers

A ship manager who provides:

- crew management services and/or
- technical management services

can opt to be taxed under the TTS provided it satisfies the following criteria:

- is a tax resident of Cyprus
- maintains a fully fledged office
- employment of a sufficient number of qualified personnel (51% of whom should be EU citizens)
- at least 2/3 of the management is carried out from the territory of the EU
- at least 60% of the fleet in terms of tonnage must comprise of EU flag vessels
- all vessels and crew under management must comply with international standards and EU law requirements relating to maritime security, safety, training and certification of seafarers, the environment, on-board working conditions and so on

additionally

- for crew managers there is an obligation for full implementation of the 2006 Maritime Labour Convention and
- for technical managers, they must have the ISM Code certification

10-year rule

Any ship owner, charterer or manager opting for the TTS must remain in the system for 10 years. Early withdrawal will result in penalties, calculated as the difference between the amount paid during the period under the TTS and the amount that would have paid had it been subject to corporation tax in the same period. In addition, the right to opt for tonnage taxation until expiration of the 10-year period from the date the option was first exercised is lost.

Economic benefits

- No tax on income derived from the operation of a Cyprus registered vessel
- No tax on dividends paid to shareholders of a Cyprus registered vessel out of profits made from the operation or from the sale of a ship
- No tax on interest earned on working capital of a Cyprus registered vessel
- No tax on the income or profit made from the sale of a Cyprus registered vessel
- No tax on the wages or other benefits of officers and crew members of a Cyprus registered vessel
- No estate duty on the inheritance of shares in a ship owning company
- No stamp duty on ship mortgage deeds or other security documents

Tonnage tax rates

The following table summarises the applicable rates for the tonnage tax calculation:

Net Tonnage				
0 - 1.000	1.001 - 10.000	10.001 - 25.000	25.001 - 40.000	> 40.000
€36,50 per 100 NT	€31,03 per 100 NT	€20,08 per 100 NT	€12,78 per 100 NT	€7,30 per 100 NT
Note: The rates applicable to ship managers are 25% of the above				

Example:

Calculation of the annual tonnage tax for a 19.538 net tonnage vessel:

1.000 NT:	1.000/100	=	10 x €36,50	=	€ 365,00
9.000 NT:	9.000/100	=	90 x €31,03	=	€2.792,70
9.500 NT:	9.500/100	=	95 x €20,08	=	€1.907,60
38 NT:	38/100	=	0,38 x €20,08	=	€ 7,63
Annual tonnage tax due				=	<u>€5.072,93</u>

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