

SHIPPING

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Cyprus has also developed into an international shipping centre for the conduct of maritime activities and the rendering of shipping services worldwide. It ranks tenth in the list of leading maritime nations and third in the European Union behind Greece and Malta, with a percentage of 12% of the total fleet of the 27 EU member states.

In March 2010 the European Commission approved the new Cyprus Shipping Taxation which is calculated on the basis of the net tonnage vessels that a shipping company may possess, charter or manage. The new tax system has added significantly to the island's attractiveness for ship registration companies offering ship management services. However, Cyprus cannot be regarded as an opportunity flag state. The government of the Republic of Cyprus has ratified major international conventions on maritime safety, the prevention of sea pollution, the training, certification and watch-keeping of seafarers, and the limitation of ship-owners' civil liability in case of oil pollution damage, as well as conventions on maritime labour.

Over the last two years, the legislation ruling merchant shipping has been significantly modernised, particularly through the ratification of all major international maritime conventions and the adoption of the acquit communitarian.

Cyprus has also set up a network of inspectors of Cyprus' ships, which is expanding constantly. These measures aim at improving the safety conditions of Cypriot ships.

33. Registration of a Cyprus Shipping Company

The first step to be taken by all non-European ship owners who wish to register a vessel under the Cyprus flag is to form a Cyprus Shipping Company which will acquire the vessel in its name. The company will be registered as a private company with limited liability (limited by shares) under the provisions of the Cyprus Companies Law, Charter 113 of the Statute Law of Cyprus as amended. Although the process is relatively straightforward, it requires comprehensive documentation and certificates to be presented to the Registrar of Cyprus Ships.

Under Cyprus Law, every company must have one or more shareholders. If anonymity and confidentiality is required, the shares may be kept "in trust" by a Nominee company in Cyprus for the beneficial owners. The nationality of the shareholders is immaterial. Under Cyprus law all shareholders of a shipping company may be foreigners residing outside the island. The transfer of shares from one foreigner to another is allowed.

Another requirement of the Cyprus Law is that the company must have its registered office in Cyprus to be used as its business address.

Regarding the appointment of director of the company, it is advisable that the majority of the directors are local so as to have Management and Control of the company in Cyprus, a necessary condition to the application of the Double Tax Treaties between Cyprus and other countries in order to avoid taxation.

A company secretary must be appointed by the directors and is removable by them. The nationality of the secretary is totally immaterial and does not affect the status of the company in any way. However, it is advisable that the secretary be a company or a person resident at the place where the directors reside and that an assistant secretary be appointed in Cyprus to attend to company annual formalities in the island.

34. Registration of Cyprus Ships

A vessel may be registered in Cyprus where more than 50% of the shares are owned by: A Cypriot citizen or a citizen of an EU member state or where it is wholly owned by:

- A company registered in Cyprus, no matter who owns the shares in the company;
- A company registered elsewhere in the EU, provided either that the company has appointed a representative in Cyprus or that the safety of the ship (ISM Code compliance) is fully entrusted to a shipmanagement company registered in Cyprus or elsewhere in the EU, and having its place of business in Cyprus;
- A company registered outside the EU where a controlling interest is held by Cyprus citizens or citizens of an EU member state, provided either that the company has appointed a representative in Cyprus or that the safety of the ship (ISM Code compliance) is fully entrusted to a shipmanagement company registered in Cyprus or elsewhere in the EU and having its place of business in Cyprus.

35. Criteria

Certain restrictions on the ability to register a vessel under the Cypriot flag exist especially with regard to the age of vessel. The age of a vessel is calculated by deducting the year in which its keel was laid from the year in which the application for registration was filed with the Registrar of Cypriot Ships.

All vessels must comply with the provisions of the Merchant Shipping legislation and the Circulars issued by the Department of Merchant Shipping. Any required special surveys must be carried out by surveyors of the Department of Merchant Shipping at the owner's

expense. The government has also authorized several well-known recognized Classification Societies to conduct audits and issue certain certificates.

36. Provisional Registration

Cypriot merchant shipping legislation allows for the provisional registration of a vessel (if at the time of registration the vessel is situated at a port outside the Republic and provided it was not previously a Cyprus ship). Most owners usually opt to have their ship provisionally registered first. This will allow them time (up to 9 months, including a 3 month extension) during which they will be able to complete the administrative formalities for permanent registration.

The application for registration of a ship under the Cyprus flag must be made by a local lawyer to the Minister of Communications and Works through the Registrar of Cyprus Ships. In practice, the Registrar will also accept the submission of applications for registration of ships on behalf of companies under formation, so that the incorporation of the company and registration of the ship can progress simultaneously. However the company must be duly incorporated prior to the registration of the vessel.

A ship may be provisionally registered under the Cyprus flag either in Limassol, by the Registrar of Cyprus Ships or at any diplomatic mission or consular post of the Republic of Cyprus abroad (hereinafter referred to as "consular officer") who will act on instructions issued by the Registrar of Cyprus Ships.

At the time of her provisional registration under the Cyprus flag a ship must be at a port so that she can be surveyed and certified on behalf of the Cypriot government. The presence of the ship at the port or place where the provisional registration will be effected is not necessary.

37. Permanent Registration

The permanent registration of a provisionally registered vessel must be effected within 6 months (or 9 months if the 3 month extension has been obtained) from the date on which she was provisionally registered.

38. Parallel Registration

Under Cypriot legislation parallel (bareboat) registration of vessels is possible. The legislation provides for the two forms of internationally accepted bareboat registration: 'Parallel-in' registration and 'Parallel-out' registration.

These two options offer some very interesting opportunities for leaseback, hire purchase and finance arrangements. The administrative practice of the Department of Merchant Shipping has confirmed that the parallel (bareboat) registration of vessels under the Cyprus regime may be effected with more than 20 states whose legislation is compatible with Cypriot legislation.

39. NEW TAX REGIME

The new tax regime is introducing a more competitive tonnage tax scheme and deviates from the Cyprus Income Tax Legislation. The main provisions of the new tonnage tax system are described below:

Beneficiaries

The tonnage tax system is available to any owner, charterer or ship manager who owns charters or manages a qualifying ship in a qualifying shipping activity. The tonnage tax is calculated on the net tonnage of the ship according to a broad range of bands and rates prescribed in the legislation.

The rates applicable to ship managers are 25% of those applied for ship owners and charterers.

Qualifying Shipping Activity

Qualifying shipping activity means any commercial business or activity that constitutes maritime transport or crew or technical management. The definition of maritime transport includes the carriage of goods or people, loading and unloading of cargo between Cyprus and foreign ports/offshore installations.

Qualifying Ship

A qualifying ship is a seagoing vessel that:

- a) Has been certified under international or national rules, and
- b) Is registered in an International Maritime Organization and/or International Labour Organization country recognised by Cyprus.

The new Tonnage Tax Law excludes a number of vessels, such as:

- Fishing vessels
- Ships used primarily for athletic and entertaining purposes
- River ferries
- Non-self propelled floating cranes
- Non sea-going trailers
- Floating hotels and restaurants

Tax exemption

The Law provides full exemption to ship owners, ship charters and ship managers from all profit taxes and imposes tonnage tax on the net tonnage of the vessels. The conditions applicable to each of the three categories, as well as the taxation regime are analyzed separately below.

Ship owners

Ship owners of Cyprus flag ships are falling under the definition of qualifying ship owners and consequently they are qualifying for the tonnage tax system.

Ship owners of EU flags and of third country flag ships may exercise the option to be taxed under tonnage tax system. The conditions needed to be satisfied by a ship owner include that a share (60%) of their fleet shall be comprised of EU flag ships and the share must not be reduced in the year period following the election. The commercial and strategic management of the fleet must be carried out from the EU. The "fleet" is defined as a fleet of two or more ships belonging directly or indirectly to the same person(s) or companies of the same group.

Under the new tax tonnage system, no tax is imposed on:

- Profits from shipping operations
- Dividends paid directly or indirectly out of such profits or from the sale of a ship
- Interest earned on funds used as working capital or for the financing, operation or maintenance of the ship
- Profits from sale of a ship or the ship owner's company shares

When an option is exercised by any ship owner for the tonnage tax system the ship owner must remain in the system for 10 years. In case of early withdrawal before the period of 10 years, the Law provides for the imposition of penalties, assessed on the tax difference between the amount paid during the period under the tax tonnage and the amount that would have been paid had it been under the Corporation Tax system.

Charterers

A qualifying charterer is a legal person that is Cyprus tax resident who charters a ship under a bareboat charter, demise charter, time charter or voyage charter.

An eligible charterer may elect to be taxed under the tonnage tax system, but must remain in the system for a period of at least 10 years. Each withdrawal will result in penalties as explained above for ship owners. If the choice is not made, profits are taxable under 10% corporation tax.

Under the new tax tonnage system, no tax is imposed on:

- Profits from use of a qualifying vessel
- Dividends paid out directly or indirectly out of such profits
- Interest earned on funds used as working capital or for the financing, operation provided that such interest is used to pay expenses arising from the charter, excluding interest on capital used for investments.

Ship Managers

A qualifying ship manager is a legal person that is Cyprus tax resident who provides crew and/or technical ship management services in respect of qualifying vessels. Commercial management is taxable under Corporation Tax.

An option exists to pay Tonnage Tax at 25% of the rates applicable to ship owners and charterers, for all vessels under management. If the choice is not made, profits are taxable under Corporation Tax at the rate of 12.5%.

Ship managers must fulfill additional criteria in order to qualify for ship managers. These include the maintenance of a fully fledged office in Cyprus with personnel sufficient in number and qualifications. At least 51% of the onshore personnel should be EU citizens and at least two-thirds of the total tonnage management should be carrying within the EU.

The 10 year election rule also applies to eligible ship managers and the same penalties apply for early withdrawal.

Under the new tax tonnage system, no tax is imposed on:

- Profits from technical and/or crew management
- Dividends paid out directly or indirectly out of such profits
- Interest income relating to the working capital / qualifying activity provided such interest is used to pay expenses relating to ship management, excluding interest on capital used for investments

Tonnage Tax Rates

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