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Shipping Opportunities in Cyprus



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### A. Introduction

Over the past five decades, the Cyprus shipping sector has experienced a remarkable growth, putting the Country at a leading position of global shipping with a fully functional and innovative department of merchant shipping, a new EU approved tonnage tax regime and a committed resident shipping industry.

The island is **one of the largest ship management centres worldwide** and the Cyprus registry fleet ranks - with 1,857 ocean going vessels of a gross tonnage exceeding 21 mln – among **the top 10 worldwide and among the top three in Europe**. Cyprus is continuously upgrading its services in order to offer a high standard of support to international shipping and a reputation of a “Flag of Progress”, according to the Department of Merchant Shipping.

The Island is a leading ship-management centre with 60 companies based on the island. Several of these companies rank among the largest in their category Cyprus also ranks among the top five countries in the world with the largest number of third party ship-management companies. Among the ship-management companies based in Cyprus, 87% are controlled by Cypriot and EU interests. They employ 40,000 seafarers out of whom 5,000 are EU nationals. The share of the fleet managed from Cyprus in the world ship-management market constitutes another interesting aspect – according to government estimates, the total fleet managed from Cyprus represents approximately 20% of the world third-party ship-management sector.

Although, the global shipping industry faces a number of challenges, including the continued impact of the financial crisis, commodity prices, piracy attacks and environmental regulations, shipping remains a critical industry to the global economy and Cyprus is expected to continue to play a prominent role as a leading maritime centre.

### **B. The Advantages of the Legal System in Cyprus**

The **Merchant Shipping Legislation**, which it was put in force as per January 1<sup>st</sup> 2010 puts the Island in a very competitive position. Cyprus has become the **only EU country with an EU approved TT** system that:

- ✓ allows mixed activities within a company/group (shipping subject to TT and other subject to 12,5% corporation tax)
- ✓ grants total tax exemption of profits tax and distribution tax at all levels
- ✓ provides for TT on the net tonnage of the vessels rather than Corporation Tax on the actual profits, regulated by the DMS rather than the Tax Authorities
- ✓ supports an open registry
- ✓ The tax system is in full compliance with EU and OECD requirements against harmful tax practices.
- ✓ allows split ship management activities (crewing or technical)
- ✓ The income tax legislation compliments the outstanding Merchant Shipping Legislation, creating a highly tax efficient harbour for shipping groups and an ideal holding company location

The **advantages** for the **investors** of the **Tax system** are:

- ✓ only 12,5% corporation tax (the lowest in the EU)
- ✓ exemption from withholding tax on the repatriation of income either in the form of dividends, interest and on almost all royalties
- ✓ exemption from tax of profits from foreign permanent establishments
- ✓ exemption from tax of dividend income
- ✓ exemption from tax of profits generated from transactions in titles
- ✓ extensive double treaties network
- ✓ tax neutral reorganisations for both EU and non EU group companies
- ✓ no controlled foreign corporation legislation
- ✓ access to EU Directives

### C. The Tonnage Tax System in Cyprus

On 29 April 2010 the Cyprus Parliament voted the long awaited new shipping legislation. The new Merchant Shipping Law, which applies as per January 1<sup>st</sup> 2010, extended significantly the scope of the Tonnage Tax regime and enhanced the position of Cyprus as a maritime centre.

The legislation, a major success for the Cyprus shipping industry, offers new opportunities because it introduced two new Tonnage Tax schemes applicable to ship-owners of non-Cyprus flag vessels and charterers. It also extended the application of the Tonnage Tax regime (and exemption from profits tax) currently enjoyed by ship-owners and ship-managers.

The European Commission considered that the scheme is in line with the European Union's Guidelines on state aid to maritime transport and authorised the scheme until 31 December 2019. It is aimed at supporting the shipping sector in Cyprus and other EU countries with a strong maritime sector, providing incentives for the employment of EU seamen and registration of vessels in the EU and enhancing the competitiveness of ship-owners, charterers and ship-managers operating in the EU.

Under this legislation, **qualifying shipping activities** are fully exempt from corporation tax. Tonnage tax on the net tonnage of the vessels is imposed instead of corporation tax on the actual profits. **Qualifying persons** are also regulated completely by the Department of Merchant Shipping rather than the Tax Authorities.

The law provides full exemption to **ship-owners, charterers** and **ship-managers** from all profit taxes and imposes tonnage tax on the net tonnage of the vessels at the following rates.

Units of net tonnage	Shipowners & charterers €TT per 100 units	Shipmanagers € TT per 400 units
0-1.000	36,50	36,50
1.001-10.000	31,03	31,03
10.001-25.000	20,08	20,08
25.001-40.000	12,78	12,78
>40.000	7,30	7,30



The regime covers **qualifying persons** performing **qualifying activities** in relation to **qualifying vessels**.

**1. Qualifying persons** are *ship-owners, charterers* (bareboat, demise, time and voyage) and *ship-managers* providing technical and/or crewing services.

## 1.1. Ship-owners

The TT regime applies to any owner of qualifying vessels that carry out a qualifying activity:

- ✓ Cyprus flag vessels
- ✓ EU/European Economic Area (EEA) flag vessels that exercised the option to be taxed under the TT regime
- ✓ Fleet of EU/EEA and non EU/EEA vessels that exercised the option to be taxed under the TT regime

The new legislation introduces the definition of a fleet. A fleet consists of two or more vessels that belong directly or indirectly to the same person(s) or companies of the same group. A group is defined as at least two companies that are directly or indirectly in a parent/subsidiary relationship or that are directly or indirectly subsidiaries of the same parent company.

The legislation allows non EU/EEA vessels to enter the TT regime provided the fleet is composed by at least 60% EU/EEA vessels. If this requirement is not met, the non EU/EEA vessels may still qualify if certain criteria are met.

The tax exemption covers:

- ✓ Profits from the use of a qualifying vessel
- ✓ Profits from the disposal of a qualifying vessel and/or share and/or interest in it
- ✓ Profits from the disposal of shares in a shipowning company
- ✓ Dividends paid out of the above profits at all levels of distribution

- ✓ Interest income relating to the financing/maintenance/use of a qualifying vessel and the working capital, excluding interest on capital used for investments.

Where an option is exercised to enter the TT system, the shipowner must be a Cyprus tax resident and the option must remain in force for at least 10 years.

### 1.2. Charterers

As with ship-owners, the TT regime applies to qualifying vessels that carry out a qualifying activity. An option exists for all vessels (Cyprus/EU/EEA/fleet) chartered under bareboat, demise, time, voyage charter, provided the charterer is a legal person tax resident in Cyprus. If the choice is not made, profits are taxable under 12,5% corporation tax.

The fleet qualifying criteria are the same as for ship-owners and so is the minimum 10 year duration.

The tax exemption covers:

- ✓ Profits from the use of a qualifying vessel
- ✓ Dividends paid out of such profits at all levels of distribution
- ✓ Interest income relating to the working capital / qualifying activity provided such interest is used to pay expenses arising from the charter, excluding interest on capital used for investments.

The law grants the exemption provided a composition requirement is met. That is, at least 25% of the net tonnage of vessels subject to tonnage tax are owned or are bareboat chartered. The percentage can be reduced but not for more than three consecutive years.

The percentage is reduced to 10% if all the vessels of the charterer:

- ✓ carry EU/EEA flags or
- ✓ are managed (crewing and technical) in the EU/EEA.

### 1.3. Ship-managers

A qualifying ship-manager is a legal person tax resident in Cyprus providing technical and/or crewing services in respect of qualifying vessels (Cyprus/EU/EEA/fleet). Commercial management is taxable under corporation tax.

An option exists to pay TT 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 12,5% corporation tax.

The fleet qualifying criteria are the same as the shipowners / charterers and so is the minimum 10 year duration.

Ship-managers have to meet some additional requirements, namely:

- ✓ The ship-manager is obliged to maintain a fully fledged office in Cyprus with personnel sufficient in number and qualification
- ✓ At least 51% of all onshore personnel must be EU/EEA citizens.
- ✓ At least 2/3 of the total tonnage under management must be managed within the EU/EEA (any excess of 1/3 taxed under 12,5% corporation tax).

The tax exemption covers:

- ✓ Profits from technical and/or crew management,
- ✓ Dividends paid out of the above profits at all levels of distribution,
- ✓ 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.



**2. Qualifying activity for**

- ✓ shipowners and charterers means maritime transport of goods or people between Cyprus ports and foreign ports / offshore installations, or between foreign ports or offshore installations and specifically includes towage, dredging and cable laying.
- ✓ shipmanagers means services provided to a shipowner or bareboat charterer on the basis of written agreement in relation to crew and/or technical management.

**3. Qualifying vessel is a sea-going vessel that:**

- ✓ has been certified in line with international principles and legislation of the flag country, and
- ✓ is registered in the register of a member country of the International Maritime Organisation (IMO) and International Labour Organisation (ILO)

The definition includes vessels that transport humanitarian aid but excludes the following vessels:

- ✓ fishing boats,
- ✓ boats that are primarily used for the athletic and entertaining purposes boats that
- ✓ have been constructed exclusively for domestic navigation,
- ✓ ferry and trailer boats that are used in ports, mouth of rivers and / or rivers,
- ✓ fixed offshore constructions that are not used for maritime transport,
- ✓ non self-propelled floating cranes,
- ✓ non sea-going trailers,

- ✓ floating hotels and restaurants,
- ✓ floating or movable casinos.

#### **D. Registration of Ships**

##### **Provisional registration**

Cyprus merchant shipping legislation allows for the provisional registration of a vessel (in case the vessel concerned was not previously a Cyprus ship) and most owners usually opt to have their ship provisionally registered first. The provisional registration is deemed to be a full registration for a period of up to six months and it can be extended further for three months with an application prior to the expiration of the six-month period. This will allow the owners time (up to nine months, including the three month extension) during which they will be able to complete the administrative formalities for permanent registration.

##### **Permanent registration**

The permanent registration of a vessel registered provisionally under the Cyprus flag must be completed within nine months, including the three-month extension period, which is the maximum provisional registration period. It is not necessary for the ship to be present in a Cyprus port.

Once the necessary documents are submitted and formalities completed the Registrar of Cyprus Ships will issue the "Certificate of Cyprus Registry" and the vessel will be permanently registered under the Cyprus flag.

##### **Parallel registration**

Under Cyprus legislation the possibility of parallel (bareboat) registration of vessels exists. 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 Cyprus legislation.

**Parallel-in** registration offers the possibility to a foreign flag vessel on bareboat charter to a Cyprus shipping company to be registered in parallel under the Cyprus flag for a period, usually two years, which is renewable.

Cyprus ships may be bareboat chartered to a foreign person or company and registered parallel in a foreign register for the duration of the charter party. This **Parallel-Out** registration allows the financing of a ship and her mortgaging under the Cyprus flag and then her registration in a foreign registry through a bareboat charter arrangement.

Most of the Cyprus registered ships are owned by Cypriot companies with a wide range of foreign interests. Due to the fact that every limited liability company is a separate legal entity, it is very common to incorporate a ship-owning company for every ship to be registered. Furthermore, Ship-management companies are finding Cyprus increasingly attractive as a base for managing ships under various flags. These companies offer full management services to ship-owners worldwide and are engaged in chartering, crewing, ship-broking and similar activities. In order to encourage the establishment of ship-management companies and other shipping headquarters in Cyprus, the existing legislation grants such companies and their foreign employees various tax advantages and other incentives.

#### **E. Cyprus Anti-Piracy Law**

The Protection of Cyprus Ships Against Acts of Piracy and Other Unlawful Acts Law of 2012 (the Law), effective as of 15 June 2012, has been designed to enhance the security of ships flying the Cyprus flag (Cyprus ships) whilst

at sea and, inter alia, establishes the required legislative framework for permitting the use, in a regulated manner, of privately contracted unarmed and armed security personnel on board Cyprus ships when they are sailing through high risk areas.

Cyprus ships are required to implement compulsory security measures when navigating through high risk areas, which can be developed and implemented taking into account the related recommendations and guidelines published by the IMO and/or the shipping industry.

The Law allows the operator of a Cyprus ship (being the registered owner, the registered bareboat charterer or the manager of a Cyprus ship) to request, on the basis of a reasoned and justified security risk assessment, a permission to engage the services of a private ship security company providing unarmed or armed private ship security guards when the ship is navigating through high-risk areas. The private ship security company and its security personnel should be one of those the Government of the Republic has vetted and certified as being allowed to provide security related services to Cyprus ships.

In such a case, the Law addresses a variety of issues relating to the position of the unarmed or armed private security guards whilst onboard, their embarkation and disembarkation as well as, the movement and storage on board of their firearms, their ammunition and of other security-related equipment.

Furthermore, there are provisions for

- ✓ Regulation over the protection of Cyprus ships by the Armed Forces or Security Forces of other States.
- ✓ the right of the shipboard personnel for self-defence.
- ✓ the right of the shipboard personnel to arrest and detain those attempting to commit or those who have committed an unlawful act

against the ship and to seize their arms and equipment, when they are found on board the ship.

- ✓ the submission by the operator of the Cyprus ship of an application requesting the issuing of a certificate which will allow the boarding of private ship security guards for the implementation of security measures and the use by them of firearms or other security related equipment whilst within high-risk areas.
- ✓ the submission by a private ship security company of an application requesting the issue of a certificate attesting that the applicant is allowed to provide the services of unarmed or armed security personnel it employs to Cyprus ships.
- ✓ the obligations of the master, the shipboard personnel, the operator of the Cyprus ship, in case of boarding of privately contracted unarmed or armed security personnel.
- ✓ the obligations of the private ship security company and of its employees, in case of boarding of unarmed or armed private ship security guards on the ship.

# THE MULTI FAMILY OFFICE

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