

Cyprus Shipping

Cyprus historically has been a port for ships trading within the waters of the Mediterranean Sea and not only. Today, after the implementation of a new tonnage tax system, it expects to better its position which today is 3rd place in Europe and 10th internationally, as a tax beneficial jurisdiction for the shipping industry.

The new Tonnage Tax System (the "TTS") has been approved by the European Commission on the 24th of March 2010 and it has been in force since the 2010 fiscal year. This new legislation gives an option to the ship owners or ship managers to opt being subject to the TTS or remain under the ordinary corporate tax which is a flat rate of 10%. It should be noted that, once you select to fall under the TTS you are obliged by it for a period of 10 years, otherwise fines are applicable.

Previously, Cyprus tax legislation was beneficial only for owners of Cyprus flag vessels and ship managers where their profits were deriving from the exploitation of vessels in shipping activities only. The new regime extended these benefits to charterers and foreign flag owners and crew management companies. The activities recognized under this scheme also have been broadening up, i.e. now it covers any profits from the disposal of a vessel. However, not everyone is eligible under the new TTS. The tax authorities will allow an owner or a charterer or a ship manager who owns, charters or manages a qualifying ship in a qualifying shipping activity to opt the TTS. Two main questions arise here. What is a "qualifying ship" and what is a "qualifying shipping activity"?

A qualifying ship is any seagoing vessel certified under international or national rules and regulations, being registered in a ship register of the IMO or ILO recognised by the republic of Cyprus. Please note that some types of vessels are specifically excluded and cannot qualify as "qualifying ship" i.e. fishing vessels and tug boats. Further, any vessel registered and flying an EU or EEA flag can be qualified. A provision for non-EU vessels allows ships to opt TTS provided they fulfil some requirements.

In answering the second question, a "qualifying shipping activity" is any commercial activity that constitutes Maritime Transport ("MT"), including ancillary activities such as cable laying or dredging, or Ship Management ("SM").

Ship Management companies in order to qualify for the TTS they must have a fully-fledged office within the Republic of Cyprus and their employees must be by a 51% majority residents of the

republic. Further, in connection to crew management and technical management, management can take place from any place within the EU, provided that 2/3 of the total tonnage is managed within the EU.

It should be noted that the tax authorities in an attempt to reduce any manipulation by those qualified for the TTS, they have implemented arm's length rules which are applicable on (i) transactions between companies qualifying for tonnage tax and non-qualifying Cypriot companies (in the case of related companies); (ii) transactions between companies qualifying for tonnage tax and non-qualifying non- Cypriot companies (in the case of related companies); (iii) transactions between activities qualifying for tonnage tax and non-qualifying activities of the same qualifying company.

Having described the TTS I should also outline the tax benefits that someone may derive out of it. The Law provides for a number of tax benefits the most important being that:

- profits from the operation of a qualifying ship from a qualifying shipping activity are tax exempt;
- dividends paid directly or indirectly out of profits from a qualifying shipping activity are tax exempt;
- interest income resulting on working capital or from the financing, operation and maintenance of a ship (excluding interest on funds used for investment purposes) is tax exempt;
- profits made from the disposal of a ship or from the disposal of a share in a ship are tax exempt; and
- profits from the disposal of shares in a ship-owing company are tax exempt.

Under the TTS tax is calculated on the net tonnage of the qualifying ship based on a range of bands and rates which range from €36.50 for every 100 tons for ships with a net tonnage of up to 1.000 tons to €12.78 for every 100 tons for ships with a net tonnage in excess of 40.000 tons. It is evident that Cyprus TTS can be beneficial and is still much simpler than those of other countries. Keeping things simpler gives to the tax payers more certainty since they can easily understand the rules and make their tax planning in advance.