

## ● CYPRUS SHIPPING

### Administrative and Legal Framework

#### Maritime Administration

Responsibility for the development of maritime activities lies with the Ministry of Communications and Works. Its authority and jurisdiction are exercised through the Department of Merchant Shipping (DMS) which was established in 1977.

The safety standards of the Cyprus fleet have been improved. The International Ship and Port Security Code (ISPS Code) has been adopted and is being implemented. Already all ships under the Cyprus flag as well as all port facilities in Cyprus have been duly certified as complying with the requirements of this code.

#### Legal Framework

The administration of the Register of Cyprus Ships is governed by the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws, 1963 to 2005 (Law No 45 of 1963 as amended) which are based on the British Merchant Shipping Acts, 1894 to 1954. The Merchant Shipping (Masters and Seamen) Laws, 1963 to 2002 (Law No 46 of 1963 as amended) and the Merchant Shipping (Fees and Taxing Provisions) Laws, 1992 to 2004 (Law No 38(I) of 1992 as amended) are the other principal merchant shipping laws.

Cyprus has ratified the major international conventions on maritime safety and security, prevention of pollution of the sea, training, certification and watchkeeping of seafarers and limitation of shipowners' civil liability and conventions on maritime labour.

In view of the harmonisation with the EU acquires, the transposition of EU Directives into national law was successfully accomplished on time by the 1st May 2004, with the adoption of 55 pieces of national legislation.

#### A guide to Ship Registration

A vessel may be registered in Cyprus if:

A) More than fifty percent (50%) of the shares of the ship are owned:

- by Cypriot citizens or
- by citizens of other Member States who in the instance of not being permanent residents of the Republic will have appointed an authorised representative in the Republic of Cyprus, or

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B) The total (100%) of the shares of the ship are owned by one or more corporations, which have been established and operate:

- in accordance with the Laws of the Republic of Cyprus and have their registered office in the Republic, or
- in accordance with the Laws of any other Member State and have their registered office, central administration or principal place of business within the European Economic Area and which will have either appointed an authorised representative in Cyprus or the management of the ship is entrusted in full to a Cypriot or a Community shipmanagement company in Cyprus, or
- outside Cyprus or any other Member State but controlled by Cypriot citizens or citizens of Member States and have either appointed an authorised representative in Cyprus or the management of the ship is entrusted in full to a Cypriot or a Community shipmanagement company in Cyprus. The company is deemed to be controlled by Cypriots or citizens of any other Member States when more than fifty percent of the shares belongs to Cypriots or citizens of any other Member States or when the majority of the Directors of the corporation are Cypriots or citizens of any other Member State.

An authorised representative may be a Cypriot citizen or a citizen of any other Member State, who is resident in the Republic, or a partnership / corporation / branch which has its place of business in the Republic and which employs permanent staff in the Republic.

The main types of vessel registration in Cyprus are Provisional, Permanent and Parallel registration. In cases where the total (100%) of the shares of the ship are owned by a company which has been established and operate in accordance with the Laws of the Republic of Cyprus and has its registered office in the Republic, practice and custom have created a special type of Cyprus shipowning company (hereinafter referred to as the “Company”) which is limited by shares and has a nominal capital, usually €1.000 divided into 1.000 shares of €1 each.

For the purposes of registration of a Cyprus ship, the following information is required by the Cyprus Ships Registrar (hereinafter called the “Registrar”):

- name of the vessel and her flag at the time of the application;
- name of the person (legal or natural) applying for the registration of the vessel;
- name of the vessel under which she will be registered;

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- particulars of the vessel (type, year of build, date keel of the vessels is laid, gross and net tonnage);
- name of the classification society with which the ship is entered; the vessel must be classed with one of the classification societies that the Cypriot Government recognises;
- Declaration of Particulars for ISM Code (Form ISM01/Revision02);
- intended trading area of the vessel;
- place where the vessel will be at the time of her provisional registration, if known; and
- the consular office where the owners wish to effect the provisional registration of the vessel.

Additionally, depending on the type of the ship registration, some extra documents will also need to be filed with the Registrar. You may find hereinbelow a list of the documents which are required by the

Registrar no matter what the registration of the Cyprus ship will be:-

- Memorandum and Articles of Association of the Company;
- Certificates of Incorporation, Registered Office, Directors and Secretary and Shareholders of the Company;
- Resolutions of the Directors of the Company resolving the purchase of the vessel and its registration in the Cyprus Registry; and
- Power of attorney authorising the person who will sign all the necessary documents on behalf and on account of the Company.
- 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 permanent registration of a provisionally registered vessel must be effected within 9 months (if the 3 month extension has been obtained) from the date on which she was provisionally registered.
- 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.

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### **Mortgages**

- Once a ship has been registered under the Cyprus flag, whether provisionally or permanently, a mortgage can be created thereby securing a loan or other financial obligations on conditions agreed to by the parties, without the need for exchange control permission.
- A mortgage once created must be deposited with the Registrar or with a consular officer on the instructions of the Registrar. Whether deposited with the Registrar or with a consular officer, the mortgage is recorded thereafter in the Register as from the date and hour of its deposit and remains an encumbrance on the vessel until discharged by the mortgagees.
- If the ship on which a mortgage was created belongs to a Cypriot company, the mortgage will also have to be registered with the Registrar of Companies within the time period prescribed by the Cyprus Companies Law, Cap.113.
- In order to discharge a mortgage, a memorandum of discharge will need to be duly executed by the mortgagee. It will then have to be attested and delivered to the Registrar or a consular officer on the instructions of the Registrar.

### **Deletion**

A Cypriot ship has to be deleted from the Register as soon as more than half of the shares in the ship are sold to a person or company not entitled to own them under the merchant shipping legislation.

A Cyprus ship may be deleted from the Registry upon the submission of an application by the owner of the ship in order for the same to be registered in a foreign registry.

No export license is required for the deletion of a vessel from the Register of Cyprus Ships. A deletion certificate or a Closed Transcript of Registry is issued as soon as the registered mortgages and other encumbrances are discharged and all matters pending with the Registry, including financial obligations, are settled.

### **Fiscal Advantages**

From a tax point of view Cyprus is considered to be among the most competitive shipping centres in the world for the following reasons:-

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- No capital gains tax on the sale or transfer of a Cyprus-registered vessel or the shares of a vessel owning company;
- No income tax on the wages of officers and crew;
- No estate duty on the inheritance of shares in a shipowning company;
- No stamp duty on ship mortgage deeds or other security documents;
- Double tax treaties with 42 countries;
- No tax on profits from the operation or management of a Cyprus-registered vessel or on dividends received from a vessel owning company.

Additionally, the tonnage tax payable on Cyprus ships is much lower than those of Cyprus' main competitors.

For vessels other than passenger ships the tonnage tax is calculated as follows:

### **INTRODUCTION TO THE NEW CYPRUS TONNAGE TAX SYSTEM**

On the 29th of April 2010 the Cyprus Parliament enacted the new legislation, Merchant Shipping (Fees & Taxing provisions) Law, which introduces a new shipping tax system in Cyprus which provides a wider applicability of the use of the tonnage tax option to a wider range of ship owners and managers. The new regime enters into force retroactively, as per the 1st of January 2010, and had already received EU approval.

The new tax regime extends the provision of the already advantageous tax system to owners of foreign flag vessels and charterers, which previously was only applicable to owners of Cyprus flag vessels and ship managers. Further, the new regime generously provides additional tax benefits in relation to profits from the disposal of vessels, interest earned on funds and dividends paid directly or indirectly from shipping-related profits. The tonnage tax option is also now extended to crew management companies who otherwise would have been exposed to a 10% corporate tax.

#### **Main Provisions of the Law**

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 provisions of the Law are applicable to owners of ships registered under the Cypriot flag automatically. Other qualifying persons who may

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elect to taxed under the provisions of the tonnage tax regime (or alternatively will remain subject to corporation tax) include Ship owners of third country flag ships, owners of a fleet of both EU and European Economic Area (“EEA”) member state and non EU/EEA ships which must comply with certain requirements to qualify for an election to be taxed under the new regime and ship managers providing technical and/or crewing services in respect of qualifying ships.

Once a qualifying person is being elected to the new tonnage tax system must remain in the system for 10 years, bearing the cost of suffering withdrawal penalties, calculated as the difference between the amount paid during the tonnage tax period and the amount that would have been payable had a corporation tax election been made in the same period.

### **\* “Qualifying Ship”**

A “qualifying ship” is any seagoing vessel certified under applicable (inter)national regulations and registered in the ship register of any member of the International Maritime Organisation (IMO) and/or the International Labour Organisation (ILO), recognized by Cyprus. Certain ships, such as fishing vessels and tug boats, are explicitly excluded from the new regime.

### **\*\* “Qualifying Shipping Activity”**

A “qualifying shipping activity” consists of any commercial activity consisting in maritime transport, crew management and/or technical management is considered a ‘qualifying activity’ in the above sense. The term ‘maritime transport’ includes the traditional carriage of goods and passengers, as well as certain ancillary services, such as dredging and cable laying, as well as accommodation and catering on board a qualifying ship.

### **Tax Benefits**

The most important tax benefits of the Law are the following:

- i. profits from the operation of a qualifying ship from a qualifying shipping activity are exempted from taxation;
- ii. dividends paid directly or indirectly out of profits from a qualifying shipping activity are exempted from taxation;

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- iii. 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 exempted from taxation;
- iv. profits made from the disposal of a ship or from the disposal of a share in a ship are exempted from taxation; and
- v. profits from the disposal of shares in a ship-owning company are exempted from taxation.

### **Tonnage Tax Rates**

The rates of tonnage tax are 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.

The rates of tonnage tax for ship managers are 25% of the above rates.

*The above is intended to provide a brief guide only. It is essential that appropriate professional advice is obtained.*