



## *Cyprus Shipmanagement Company*

*In this issue we wish to advise clients or prospective clients as to how our Firm may set up a Shipmanagement Company in Cyprus in a short period of time. The following information may prove useful to our clients' or prospective clients. Our Firm's partner, Mr. Vassilios C. Sioufas, licensed to practice both in Greece and in Cyprus will be more than happy to advise on any related questions and attend to the relevant set up process.*

### Set Up / Technical & Crew

A new Cyprus company should be established or an existing company should be re-domiciled in Cyprus to become a Cyprus Shipmanagement Company ("CSC"). Re-domiciliation may take up to 3 – 4 weeks depending on the registry of companies in Cyprus. The formation of a Cyprus company usually takes up to two - three days.

A CSC needs to be established in a physical location (proper office) within the Cyprus Republic. This office should be independent whereas all ISM departments should be formed in the case of the provision of technical services.

In the case of a new CSC providing technical services the relevant ISM approvals should be obtained. Same will be attributed following physical inspections by the relevant officer. In the case of re-domiciliation of a Shipmanagement company with a branch established under law 89/67 in Greece, an addendum to the DOC should be requested from the relevant class so that the ISM responsibilities be moved to the new CSC office. By adopting this method the present law 89/67 establishment should be maintained (even at a minimum scale) whereas any vessels being managed under the CSC will not be facing the "Cyprus Ports Turkish Ban".

All the vessels and crews under management by the CSC should comply with relevant international standards (MLC 2006) and Community Law requirements relating to maritime security, safety, training and certification of seafarers, environmental performance and on board working conditions. Must ensure implementation of the Maritime Labor Convention concerning seafarers employment agreements, compensation in the case of ship's loss or foundering, provision of medical care, ship owner's liability including payment of wages in case of accident or sickness and repatriation for all ships under management.

In case the owner's liability to cover claims of contractual compensations for death or long term disability of seafarers due to occupational injury, illness or hazard is not secured by the ship owner CSC has to provide it.



CSC to ensure that the international standards regarding hours of work and hours of rest are fully complied with.

CSC to conclude appropriate private contractual arrangements with the ship owner and reflect those in the seafarers' employment contracts expressly providing for compliance with the obligation mentioned above.

### **CSC Qualified Services**

1. Selecting and engaging the ship's crew including payroll arrangements and insurance for the crew.
2. Ensuring that the applicable laws in respect of manning levels, rank, qualifications and certification of the crew and the employment regulations including crew's tax discipline and other requirements are satisfied.
3. Ensuring that all members of the crew have passed a medical examination certifying that they are fit and are in possession of valid medical certificates.
4. Arranging for transportation of the crew.
5. Training of the crew and supervising their efficiency.
6. Other relevant functions usually performed by shipmanagers under the BIMCO standard Shipmanagement Agreement.
7. Providing competent personnel to supervise the maintenance and general efficiency of the vessel.
8. Arranging and supervising of dry dockings, repairs, alterations and the keeping up of the ship to the standards required by the Law of the flag and/or the places the ship trades and/or the requirements and recommendations of its classification society.
9. Arranging the supply of necessary stores, spares and lubricating oil.
10. Other relevant functions performed by shipmanagers under the BIMCO standard shipmanagement agreement.

### **Applicable tax regime: Corporation tax of 12,5% with election of tonnage tax regime**

1. The option to elect to be taxed under the tonnage tax system, which will be valid for **ten years**, may be exercised by a written application addressed to the Director of the Department of Merchant Shipping with a copy to the Commissioner of Taxation, at least thirty days prior to the 1st January of the relevant year. Our firm can undertake to process this application following each CSC instructions. Upon submission of the application, the Director of the Department of Merchant Shipping will assess the application and its supporting documentation and will decide, within thirty (30) days, whether the applicant qualifies to be taxed under the tonnage tax system and will communicate his decision to the applicant and to the Commissioner of Taxation. In case of approval, the option shall be effective as from the date of receipt of the application and shall continue to remain in effect until it expires, or it is subsequently withdrawn by the ship manager.



2. In case the qualifying CSC is part of a group of companies, which are tax resident of Cyprus and exercise the same activity as the applicant company, then all such qualifying companies must enter (by submitting separate Application(s)) the tonnage tax system as soon as one company of the group has opted to enter it (“all or nothing” option).

Q: *If a CSC elects the 12,5% taxation system, which is the margin the CY tax system would expect.*

A: **There are no transfer pricing rules or transfer pricing documentation requirements in the Cyprus tax laws. Also, the Cyprus Tax Authorities currently refuse to provide advance rulings on transfer pricing issues. As such, no certainty as to an acceptable profit margin can be provided and consequently we cannot comment on what should be an acceptable margin.**

Therefore our view, is as long as the Company can justify its results (losses / profits) there wouldn't be an issue.

### 3. Tonnage Tax Calculation Schedule

#### Crewing

Tonnage tax rates for every 400 units of net tonnage	0 – 1000 €36.50
	1001 – 10000 €31.03
	10001 – 25000 €20.08
	25001 – 40000 €12.78
	40001+ €7.30

#### Technical

Tonnage tax rates for every 400 units of net tonnage	0 – 1000 €36.50
	1001 – 10000 €31.03
	10001 – 25000 €20.08
	25001 – 40000 €12.78
	40001+ €7.30

#### Crewing & Technical

Tonnage tax rates for every 400 units of net tonnage	0 – 1000 €36.50
	1001 – 10000 €31.03
	10001 – 25000 €20.08
	25001 – 40000 €12.78
	40001+ €7.30



4. **Election criteria and conditions to be fulfilled to remain in the tonnage tax system (in addition to qualification criteria above)**

- a) Employ at least 5 persons including one skilled crew manager if managing up to 10 ships and at least 10 persons including two skilled crew managers if managing more than 10 ships. A CSC should submit the CVs of all relevant employees together with the application to be registered under the tonnage tax system.
- b) For crewing the manager should employ at least 5 persons including one skilled crew manager if managing up to 10 ships and at least 10 persons including two skilled crew managers if managing more than 10 vessels.
- c) For technical the manager should employ at least 5 persons including one qualified marine engineer if managing up to 10 ships and at least 10 persons including two qualified marine engineers if managing more than 10 vessels.
- d) For crewing and technical the manager should employ at least 5 persons including one qualified marine engineer and one skilled crew manager if managing up to 10 ships and at least 10 persons including two qualified marine engineers and one skilled crew manager if managing more than 10 ships
- e) At least 51% of the persons employed ashore must be citizens of the EU.
- f) 2/3 of the total ships under management must be managed from within EU.
- g) At least 60% (calculated in tonnage) of the fleet managed in terms of tonnage should be Community ships

If Community ships total tonnage is less than 60%

- a share of the fleet should comprise of Community ships
- the Community share should remain unchanged or increase within a period of three years from the election date.
- The Ministry of Merchant Marine will conduct an audit at the end of the three year period in order to establish the community share of each CSC.

If the Community share has decreased the CSC may remain in the system if Cyprus' Community share has not decreased, but tonnage tax for all non Community flag vessels will increase by 10%.

Furthermore, if the Community share has decreased a CSC will not be able to manage a non EU vessel during the next year following the three years audit.

At the 31<sup>st</sup> of December of each year the annual calculation of the Community share is being processed.

Submit at the beginning of each year a written declaration to the Director of the Merchant Shipping Department confirming that the contractual arrangements as described above have been concluded or will be concluded for all ships under management.



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In summary, eligible to elect to be taxed under the tonnage tax system is a CSC who:

- Is a tax resident of the Cyprus;
- Has opted to be taxed under the tonnage tax system,
- Provides ship management services (crew and/or technical) to qualifying ships and meets at any time the following requirements:

#### **4. Important Q&A**

1. **Q:** *A CSC has undertaken the management of vessels (under European or Non European Flag) and conducts the commercial management of the vessels (Chartering, manning, suppliers, bunkering, and accounting). Is the parallel assignment of the technical management of the vessels to a Law 89/67 company in Greece allowed?*

**A:** **The CSC is allowed to commercially manage a vessel, however such services will fall under the corporations' tax regime and not the tonnage tax regime. The commercial management could alternatively be processed via another entity (eg. Law 89/67), whereas in the case of a Cyprus company it will fall under the corporations tax regime. Therefore the parallel assignment of the technical management of the vessels to a Law 89/67 company in Greece is allowed.**

2. **Q:** *Can the chartering and technical management be handled by a Greek company and the remaining (manning etc) by the CSC?*

**A:** **The CSC in order to be eligible for tonnage tax should be providing the following services:**

- a) Crewing or
- b) Technical or
- c) Both

3. **Q:** *Is co management of a vessel by a CSC and a Greek company (Law 89.67) permitted?*

**A:** **One company may provide crewing services and the other technical.**

4. **Q:** *What if the CSC manages the crew, accounting and the Greek manages the technical part?*

**A:** **The tonnage tax law provides that a company may provide only crewing or technical services or both in order to be eligible to be taxed under tonnage tax. The answer is in the affirmative. In such a case the CSC will be taxed under tonnage tax provided it satisfies the conditions of a shipmanager.**

5. **Q:** *Is it right to understand that a CSC cannot charter out a vessel? If so, should we incorporate two companies? One for management and one for chartering?*



**A:** Correct, provided that charter is done under bareboat charter agreement and the charterer satisfies the conditions of the tonnage tax. A Cyprus company to be eligible to be taxed under tonnage tax should be tax resident of Cyprus and the vessel should be a qualified vessel engaged in qualifying activity.

6. **Q:** *What is the difference in the tonnage tax system between the Chartering and the Management company?*

**A:** The rates are different between the managers and the charterers

7. **Q:** *In the case that a Cyprus Chartering Company receives the charter and it distributes it to the ship owning company, would there be any tax liability?*

**A:** No tax is imposed on profits of a qualifying charterer from the operation of a qualifying chartered ship in a qualifying shipping activity. Therefore you need to investigate whether the company is a qualifying charterer, chartering a qualifying vessel in a qualifying activity.

8. **Q:** *Profits of the ship owning company are distributed tax free? Would a CY tax resident be except or not?*

**A:** Profits of qualifying shipping company engaged in qualifying shipping activity (i.e. taxed under Cyprus tonnage tax) can be distributed free irrespective of tax residency of the shareholder.

9. **Q:** *Profits of a ship owning company (regardless its jurisdiction) would be distributed tax free or not?*

**A:** Depending on the tax law of each jurisdiction. However, for Cyprus tax purposes any dividends to be received by a Cyprus tax resident individual from foreign shipping companies which are not subject to tonnage tax in Cyprus will be subject to 17% special contribution for defense. The dividends to be received by a Cyprus tax resident company from a shipping company should be exempt from special contribution for defense if foreign companies paying the dividends are engaged 50% more in trading activities.

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