

THE MERCHANT SHIPPING (FEES AND TAXING PROVISIONS) LAW OF
2010 (LAW NO. 44(I)/2010)

The Tonnage Tax (Arm's Length Principles) Notification of 2012¹

(Notification by virtue of sections 41(3) and 42(3) of Law No. 44(I)/2010)

44(I) of 2010. The Director of the Department of Merchant Shipping of the Ministry of Communications and Works, exercising the powers vested upon him under sections 41(3) and 42(3) of the Merchant Shipping (Fees and Taxing Provisions) Law of 2010, issues the following Notification:

Short title.

1. This Notification shall be cited as the Tonnage Tax (Arm's Length Principles) Notification of 2012.

Interpretation.

2.—(1) In this Notification —

118(I) of 2002
230(I) of 2002
162(I) of 2003
195(I) of 2004
92(I) of 2005
113(I) of 2006
80(I) of 2007
138(I) of 2007
32(I) of 2009
45(I) of 2009
74(I) of 2009
110(I) of 2009
41(I) of 2010
133(I) of 2010
116(I) of 2011.

“connected persons” means the persons specified as such by the provisions of section 33(3) of the *Income Tax Law of 2002, as amended*;

“Department” means the Department of Merchant Shipping as defined by section 2 of the Law ;

¹ **Editorial Note:** Published in the Official Gazette of the Republic of Cyprus No.4559, Supplement III(I), dated 6.4.2012. This is an “unofficial” translation into English prepared by the Department of Merchant Shipping and does not intend to replace any translation prepared by the Law Commissioner’s Office.

According to Article 3 of the Constitution of the Republic of Cyprus, the official languages of the Republic of Cyprus are Greek and Turkish and therefore the present translation into English is not the authentic version.

The authentic and therefore legally binding version, is the Greek version of this Notification.

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“Director” means the Director of the Department of Merchant Shipping as defined in section 2 of the Law.

“Law” means *the Merchant Shipping (Fees and Taxing Provisions) Law of 2010*;

“person subject to tonnage tax” means every qualifying owner, qualifying charterer or qualifying ship manager who is admitted to the tonnage tax system, as specified by the relevant provisions of the Law;

“tax resident” means the tax resident as defined in section 2 of the Law;

“tonnage tax” means the annual tax imposed pursuant to the relevant provisions of the Law;

(2) Terms contained in this Notification and not otherwise defined herein shall have the meaning attributed to such terms in the Law.

Transactions to which the arm's length principles are applied.

3. —The implementation of the Arm’s length principles pursuant to sections 41 and 42 of the Law shall be made with respect to the following transactions:

- (a) transactions between any person subject to tonnage tax and any person who is a tax resident and who is not subject to tonnage tax, if such persons are between them, connected persons;
- (b) transactions between any person subject to tonnage tax and any person who is not a tax resident and who is not subject to tonnage tax, if such persons are between them, connected persons;
- (c) transactions between any person subject to tonnage tax in relation to the qualifying shipping activities and non-qualifying activities of the same person.

Effects of non compliance with the Arm's length principles.

4. —(1) In case, in the course of consultation and coordination between the Director and the Department of Inland Revenue, arising by the effect of the provisions of sections 49 and 50 of the Law and upon the submission within a time – limit of sixty (60) days by one of the persons mentioned in paragraph 3 of the present Notification of the requested information which is deemed necessary, it is found that the effected transactions were not made at arm's length, then any profits which would, but for those conditions, have accrued to one of the persons mentioned in paragraph 3 of the present Notification, but, by reason of those conditions, have not so accrued, may be included in the profits of the said person and be taxed accordingly.

(2) Provided that when applying the provisions of subparagraph (1) above, each person involved may be requested to submit detailed accounts within a time – limit of sixty (60) days.

Relevant offences.

P.I 395/2000.

5. —A person subject to tonnage tax who is obliged to submit the requested information in accordance with the provisions of paragraph 4 of the present Notification and who does not submit this information, or submits false information, by the effect of section 65(1) of the Law, may be subjected to the offences provided under Regulations 20 and 21 of *the Merchant Shipping (Taxation of Ship management Services) Regulations of 2000.*

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