

MINISTRY OF COMMUNICATIONS AND WORKS
DEPARTMENT OF MERCHANT SHIPPING
LEMESOS

Circular No.56 /2004

TEN 13.31.02

01 December 2004

All Shipmanagers Operating in the Republic of Cyprus.
All Owners
and Representatives of Ships under the Cyprus flag.

Subject: Taxation of Shipmanagement Services for the Fiscal Year 2004

I refer to the above subject and I wish to inform you of the following:

1. Option regarding method of taxation

A basic provision of the principal Law (Law 38(I)/92 as amended, section 5A (2)), is that shipmanagers are **automatically taxed** using the new method of taxation of shipmanagement services, **unless** they have expressly opted to be taxed according to the prevailing Income Tax Law in force in Cyprus: i.e. presently at a differential rate of 4.25% on their net earnings, under section 19 of the Income Tax Law of 2002 (Law 118 (I) /2002).

The option may be exercised by interested persons, by a written notice addressed to this Department, with a copy to the Commissioner of Income Tax (Department of Inland Revenue). For a specific fiscal year, the notice must be sent at least 30 days before the 1st of January of the relevant fiscal year and continues to be in force until it is withdrawn in the same way (section 5A (3) of the principal Law). A written notice of withdrawal which is given during any year, becomes effective on the 31 st of December of that year and the provisions regarding the new method of taxation of shipmanagement services are applied as from the 1 st of January of the following year.

Consequently, the option, once exercised remains in force until it is withdrawn by a written notice. Practically that means that shipmanagers who, for the fiscal year 2003 opted to be taxed by the Commissioner of Income Tax according to the rates provided by the Income Tax Law in force, will continue to be taxed in the same manner for the fiscal year 2004 and so on, until they give a written notice of withdrawal.

2 . Practical Steps For The Fiscal Year 2004

The following practical steps should be followed in dealing with the assessment and collection of the new tax for the fiscal year 2004:

Step 1: Shipmanagers who have not opted for income tax, are subject to the new regime and should contact this Department to obtain the form of the **Declaration for the Taxation of Shipmanagement Services (Declaration) [Form MS 51G (Greek version) or MS 51E (English version)] for the Fiscal year 2004** . This Department may also provide the form in electronic version on a diskette.

Shipmanagers having access to the Internet may also obtain the form of the Declaration from the Web page of this Department <http://www.shipping.gov.cy> for relevant downloading .

In order to facilitate and reduce considerably the workload for the preparation of the Declaration by the shipmanagers and its examination by this Department, the Department's Web page provides also for a **special calculator**, for the accurate calculation of the tax of each vessel according to the method set out in the Law.

In case the Declaration is not certified by an independent accountant practising in the Republic and duly authorised by the Minister of Finance to prepare accounts and computations of objects of the tax, shipmanagers should produce supporting documents (the supporting documents are specified on the Declaration).

Step 2: Between the 1st and the 31st of January 2005: As per Regulation 5 of P.I. 395/2000, within this period shipmanagers are obliged to submit to this Department by hand or by registered post the Declaration and to pay the amount of tax estimated by them.

In order to expedite the examination of the Declaration by this Department as provided in Step 3, shipmanagers are urged to submit, in addition to the signed and stamped Declaration form, an electronic copy of the same in Excel, either by E-mail to our address maritimeadmin@dms.mcw.gov.cy , or on a diskette.

Step 3 : Between the 1st of February and the 31st of March 2005: As per Regulation 6 (1) of P.I. 395/2000, the Declaration will be examined by the Director of the Department of Merchant Shipping (Director) who will either -

(a) accept the object of the tax mentioned in the Declaration and impose the tax accordingly, or

(b) not accept the object of the tax , if in the opinion of the Director, either the object of the tax of the shipmanager is reduced by transactions which are artificial or fictitious, or the Declaration is incomplete . In this case, the Director may disregard any such transaction and impose the tax on the basis of the correct object of the tax.

In both cases, the imposition of the tax will be made by the Director by a **Notice of Imposition of Tax on Shipmanagement Services (Form MS 52G (Greek version) or MS 52E (English version))** , served by hand or sent by registered post to the shipmanagers so taxed (see Regulation 6 of P.I. 395 / 2000).

If the tax is not paid by the prescribed date(i.e. between the 1st and the 31st of January 2005, for the fiscal year 2004) it shall be collected with interest at a rate of 5% per annum within six months from the prescribed date, or with interest at a rate of 9% per annum, if paid later.

It is also important to note that the manager, or any other individual having the management of a company providing shipmanagement services, is solely responsible for submitting the Declaration and carrying out all other necessary acts and representations for the payment of the tax imposed. This obligation may also be carried out by the Certified Auditors of the shipmanagement company, provided that they are duly authorised by the company to do so (see Regulation 15 of P.I. 395 /2000).

In case a shipmanager has not submitted the Declaration and the Director is of the opinion that such shipmanager is obliged to pay tax, the Director may, within six years from the expiration of a fiscal year, determine according to his judgment the object of the tax and impose the tax on the shipmanager according to the type of the shipmanagement services provided (see Regulation 7 of P.I. 395 /2000).

It must be noted that every shipmanager who disputes the tax imposed has the right to submit an objection in writing to the Director for the review and revision of same. In case that, after the completion of the objection procedure, the shipmanager still considers himself aggrieved by the tax imposed on him, he is entitled to make a recourse to the Supreme Court of the Republic, or to make an hierarchical recourse to the Minister of Communications and Works (see Regulations 8 and 9 of P.I. 395 /2000).

Finally, it must be pointed out that Regulations 20 and 21 of P.I. 395 /2000 provide for criminal offences. Briefly, any person who:

- wilfully and fraudulently submits an incorrect Declaration in connection with the ascertainment of his liability to tax;
- assists, any other person to make a Declaration which is false in any material particular;
- fails to submit a Declaration or to perform any duty required by the new legislation in force,

is subject to penalties which vary from imprisonment for a term not exceeding 3 years, or to fines not exceeding 1.500 pounds, or to both such sentences.

3 . New Tax exemption for Community ships

It must be noted that the tax regime of shipmanagers operating in the Republic of Cyprus, (Principal Law as amended by Law 166(I)/2004) offers now in section 5A(I) (b) the possibility for the shipmanagers to be exempted from the relevant tax in respect also of

“ any Community ship to which the provision of shipmanagement services in relation to its crewing and technical management is entirely contracted to a Cyprus or a Community shipmanagement company, which has an office in Cyprus staffed with a sufficient in number and qualifications personnel , for technical, administration and accounting matters relating to ships. ”

For the fiscal year 2004, the above tax exemption will apply to Community ships for which the shipmanagement agreement was valid during the **period 1st of May 2004 to 31st December 2004.**

Shipmanagers operating in the Republic of Cyprus are advised to strictly abide by the present Circular.

Serghios S. Serghiou
Director
Department of Merchant Shipping

cc.

- Permanent Secretary, Ministry of Communications and Works
- Permanent Secretary, Ministry of Finance
- Commissioner of Income Tax, Department of Inland Revenue
- Permanent Secretary, Ministry of Foreign Affairs
- Maritime Offices of the Department of Merchant Shipping abroad
- Diplomatic Missions and Honorary Consular Officers of the Republic
- Cyprus Shipping Council
- Cyprus Union of Shipowners
- Cyprus Bar Association
- Institute of Certified Chartered Accountants of Cyprus