

Taxation of Shipmanagement Services

Circular No. 3 /2001

25 January 2001

TEN 1/5

TEN 4/12

TEN 4/12/A

To all Shipmanagers Operating in the Republic of Cyprus To all Owners, and Representatives of Ships under the Cyprus flag.

Subject: Taxation of Shipmanagement Services

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

1. INTRODUCTION

Until recently, Cyprus shipmanagement companies were taxed at a differential rate of 4.25% on their net earnings, under the general tax provisions of the International Business Sector (section 28A of the Income Tax Law: i.e business entities registered in Cyprus which are wholly owned by non-residents and derive their income exclusively outside the island).

Since July 1999, a new framework for the taxation system for the shipmanagement services has been introduced.

The new system introduced with *Law 73 (I) of 1999* (see Official Gazette No. 3333, Supplement I(i), dated 18.06.1999), amending *The Merchant Shipping (Fees and Taxing Provisions) Laws 1992-1999 (i.e. the principal Law 38(I) /92 as amended)* is now **fully operational** with the recent adoption of the relevant subsidiary legislation, i.e. *The Merchant Shipping (Taxation of Shipmanagement Services) Regulations of 2000 (P.I. 395 /2000)*

(published in the Official Gazette No. 3459, Supplement III (I), dated 29.12.2000).

Consequently ,the new regime will apply **as from the fiscal year 2000**.

The regime is not applicable for the fiscal year 1999 (see *Regulation 24 of P.I. 395 /2000*).

2. MAIN CHARACTERISTICS OF THE NEW TAX REGIME

2.1 Characteristics of the principal Law

Law 73 (I) of 1999 , introduced a new framework for a taxation regime for shipmanagement services rendered by shipmanagers operating in the Republic of Cyprus (sections 2, 4 and 5A of the principal Law). The main provisions of this Law are described below.

2.1.1. Shipmanagers and type of shipmanagement services subject to the new regime

The new taxation regime covers the three basic types of shipmanagement services which are commonly offered internationally, i.e. crewing, technical and commercial management of ships, rendered for a period **longer than one month**, by persons who have an office in the Republic of Cyprus staffed with a sufficient in number and qualifications personnel (see section 2 of the principal Law, and Reg.2 of P.I. 395/2000).

2.1.1.1 Shipmanagers subject to the new regime

The shipmanagers who are eligible to benefit from the new tax system are the following:

- Those providing crewing or technical shipmanagement services and have an office in the Republic of Cyprus, staffed in case they manage up to 10 ships, with at least 5 persons (including one qualified marine engineer or **one** skilled crew manager, as the case may be), and in case they manage more than 10 ships with at least 10 persons (including two qualified marine engineers or one skilled crew manager as the case may be).
- Those providing commercial shipmanagement services and have an office in the Republic of Cyprus staffed with one skilled commercial manager and at least three other persons.

2.1.1.2. Shipmanagement services covered by the new regime

The exact definition of the shipmanagement services covered by the new tax regime is the following :

-“**management services relating to the supply of crew “ (Crewing)** means services relating to the supply of either the whole or part of the crew, as stated in the safe manning certificate of the ship.

-“**technical management**” means the monitoring of the hull, the engines and equipment of the ship in order to maintain the standards acceptable by her Flag State according to the relevant Laws and Regulations in force.

“**commercial management**” means:

- (a) The provision of chartering services in accordance with the instructions of the shipowner, which includes seeking and negotiating employment of the ship and the conclusion of charter parties or other contracts relating to the employment of the ship,
- (b) the payment to shipowners of all hire and freight revenues and any other moneys, to which the shipowners are entitled and arise out of the employment of the ship, and
- (c) the provision of voyage estimates, accounts, the calculation of hire, freights and demurrage, and/or dispatch moneys due from or due to the charterers of the ship.

2.1.2. Exemption from Income Tax

Notwithstanding the provisions of any Income Tax Law in force in Cyprus, for the period ending on the 31st December 2020, no tax is charged, levied or collected upon the income derived by any person from the rendering of shipmanagement services (section 4 of the principal Law). Furthermore, section 4 of the principal Law provides for an exemption from income tax upon the dividends received by a shareholder of a company rendering shipmanagement services.

2.1.3. Special tax on shipmanagement services

As a counterbalance to the above tax exemption, persons providing shipmanagement services for both Cyprus and foreign vessels are taxed with a special tax at a rate equal to 25 % of the equivalent tonnage tax rates prescribed in the Second Schedule of the Law for as long as the shipmanagement contract remained in force during the fiscal year (i.e. those applicable to Cyprus registered vessels) (new section 5A (1) of the principal Law, and Regulation 4 of P.I. 395/2000).

2.1.3.1. Ships which are exempted from the calculation of the special tax

The following 3 categories of ships are exempted from the calculation of the special tax on shipmanagement services:

- a) Foreign flag or Cyprus flag ships for which a shipmanager has rendered **any type** of shipmanagement services for a period of **one month or less**.
- b) Foreign flag ships pursuant to a parallel - out registration from the Cyprus Registry of Ships, which, by virtue of section 8 (3) (b) of the principal *Law* , qualify for a 30% reduction on the annual tonnage tax, on account of their technical and crewing management being **entirely** contracted to a Cyprus shipmanagement company, and provided that the relevant supporting documentation has been deposited with the Registrar of Cyprus Ships as required by the relevant provisions of the principal *Law* .
- c) Cyprus flag ships, which, by virtue of section 8 (3) (b) of the principal *Law* , qualify for a 30% reduction on the annual tonnage tax on account of their technical and crewing management being **entirely** contracted to a Cyprus shipmanagement company, and provided that the relevant supporting documentation has been deposited with the Registrar of Cyprus Ships as required by the relevant provisions of the principal *Law*.

2.1.3.2 Ships which are included in the calculation of the special tax

The following three categories of ships are to be included in the calculation of the special tax on shipmanagement services, provided such services are for a period **longer than one month**:

- a) Foreign flag ships for which a shipmanager has rendered **any type** of shipmanagement services, **and which do not** fall in category (b) of paragraph 2.1.3.1 above.
- b) Cyprus flag ships for which a shipmanager has rendered crewing **and/ or technical** shipmanagement services, **and which do not** fall in category (c) of paragraph 2.1.3.1 above.
- c) Cyprus flag ships for which a shipmanager has rendered **commercial** management services (either entirely or partially).

2.1.4. Option regarding method of taxation

A basic provision of the principal Law (new section 5A (2)), is that shipmanagers are **automatically taxed** using the new special tax method on 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 new section 28F of the Income Tax Law, as introduced by Amending Law 155 (I) of 1999.

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 (new 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 special tax method on 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 written notice. Practically that means that shipmanagers who, for the fiscal year 2000 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 2001 and so on, until they give a written notice of withdrawal.

2.2. Main characteristics of the subsidiary legislation

New section 5A (1) of the principal Law expressly provides that the method, by which the special tax for rendering shipmanagement services is assessed and collected, shall be determined by Regulations (Subsidiary Legislation).

The Merchant Shipping (Taxation of Shipmanagement Services) Regulations of 2000 (P.I. 395/2000), have been enacted in order to set out the method under which the special tax for rendering shipmanagement services is assessed and collected. The Law is now fully **operational** with the recent adoption of P.I. 395/ 2000.

Regulations P.I. 395/2000 have been drafted in such a way that they contain effective and particular mechanisms that are related to the peculiarities of the ship management industry, and the basic principles on the assessment and collection of taxes as provided by the Assessment and Collection of Taxes Law of 1978 as amended (Law 4/78). Thus, the principles on the assessment and collection of the new tax by this Department as contained in the P.I. 395/2000 are in most respects identical to those applicable by the Commissioner of Income Tax. Consequently, shipmanagers may exercise their option between the special tax for rendering shipmanagement services and the income tax system, not on the basis of different procedural criteria relating to the assessment and collection of tax , but purely on the basis of economic / commercial criteria.

For your further guidance and understanding of the new system, we attach herewith [the full text of Regulations P.I. 395/2000](#), in an **unofficial** translation in English, prepared by this Department.

3. PRACTICAL STEPS FOR THE FISCAL YEAR 2000

On the basis of the new legislation introduced, the following practical steps should be followed for dealing with the assessment and collection of the new tax for the fiscal year 2000:

Step 1: As from 15 February 2001: Shipmanagers who have not opted for income tax are subject to the new regime, and should contact our Department and obtain the form of the **Declaration for the Taxation of Shipmanagement Services**

(Declaration) (Form MS 51G (Greek version) or MS 51 E (English version)) .
Our 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 our Department <http://www.shipping.gov.cy> for relevant downloading .

In order to considerably facilitate and reduce the workload for the preparation of the Declaration by the shipmanagers and its examination by this Department, our Web page will provide also 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 will be specified on the Declaration).

Step 2 : Between the 1st and the 30th of March 2001: Within this period shipmanagers are obliged to submit to this Department by hand or by registered post the Declaration, and to pay the estimated amount of tax.

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 at our address dms@cytanet.com.cy , or on a diskette.

Step 3 : Between the 1st of April and the 31st of May 2001: Examination of the Declaration 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 , whenever in the opinion of the Director, either the object of the tax of any shipmanager is reduced by transactions which are artificial or fictitious, or his 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 30 of March 2001,for the fiscal year 2000) 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:

-willfully 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 introduced,

I wish to assure you that every possible measure is taken by this Department for the effective and smooth implementation of the new legislation and the tax system recently adopted. In this respect , I trust that I will have your full cooperation.

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

1. According to the provisions of the principal Law, persons (i.e. shipmanagers) may be either legal or physical persons.
2. By virtue of section 2 of the principal Law, which provides the definition of a "Cyprus ship", Cyprus ships which fly a foreign flag pursuant to parallel-out registration from the Cyprus Registry of Ships, continue to be considered Cyprus ships. In this respect, since the adoption of Amending Law 63(I)/ 99, bareboat charterers of such ships are also eligible, to benefit a 30% reduction on the tonnage tax as provided by section 8 (3) (b) of the principal Law, and therefore, qualify for the tax exemption as provided for, in section 5A(1) of the principal Law.
3. " Object of the tax " actually means the shipmanagement services provided during the fiscal year for a period longer than one month by the person who is subject to the new taxation system; see Regulation 2 of P.I. 395/ 2000.

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
- Association of Cypriot Shipowners Ltd
- Union of Cypriot Shipowners
- Cyprus Bar Association
- Institute of Certified Chartered Accountants of Cyprus