



REPUBLIC OF CYPRUS

MINISTRY OF
COMMUNICATIONS AND WORKS



DEPARTMENT
OF MERCHANT SHIPPING
LEMESOS

Circular No. 3/2011

TEN 12.3.01.36

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20 January 2011

Owners of Ships under Foreign Flag,
Charterers, and Ship Managers
operating in the Republic of Cyprus

Members of the Cyprus Shipping Chamber c/o CSC

Members of the Cyprus Union of Shipowners c/o CUS

Subject: Cyprus Tonnage Tax System (Law 44(I)/2010):
Application for Approval of the Option to be taxed under the Tonnage Tax System/
Declaration for Taxation / Arrangements for Fiscal Year 2010

I refer to the above subject and further to my Circulars No. 14/2010, No. 28/2010, No. 31/2010, No. 32/2010, No. 39/2010, No. 42/2010 and No. 1/2011 respectively, I wish to inform you of the following:

A/ Option for Tonnage Tax

Qualifying owners of foreign ships, qualifying charterers, and qualifying ship managers, tax residents in the Republic of Cyprus, have the right to opt to be taxed in respect of any particular fiscal year with Tonnage Tax under the provisions of section 7, section 19 and section 29, respectively, of the *Merchant Shipping (Fees and Taxing Provisions) Law of 2010 (Law 44(I)/2010)*.

The option, **valid for ten years**, may be exercised by a written Application for Approval of the Option to be taxed under the Cyprus Tonnage Tax System (the «Application») addressed to the Director of the Department of Merchant Shipping with a copy to the Commissioner of Income Tax, Inland Revenue Department, at least thirty days prior to the 1st January of the relevant year.

Upon submission, the Director will assess the Application and its supporting documentation and will decide, within thirty (30) days, whether the applicant qualifies and will communicate his decision to the applicant and to the Commissioner of Income Tax. In case it is approved, the option shall be effective as from the date of receipt of Application and shall continue to remain in force until it expires, or it is subsequently withdrawn by the owner/ charterer/ ship manager in the same manner. A notice of withdrawal given during the term of any year shall have effect on the 31st December of that year.

In case a qualifying owner of foreign ships/ charterer/ ship manager, who has opted to be taxed under the tonnage tax system elects to withdraw, otherwise than as a result of the



disposal / termination of the charter / termination of the ship management of all ships under its operation/management, from the tonnage tax system prior to the expiration of the ten year period, the said owner/ charterer /ship manager will be liable to pay the difference between the tax which the owner/ charterer /ship manager would have been liable to pay had the provisions of *the Income Tax Law of 2002 as amended (Law 118(I)/2002 as amended)* applied and the amount of relevant tax which should have been paid during the period the owner /charterer / ship manager remained in the tonnage tax system.

B/ «Declaration for Taxation»

Qualifying owners of foreign ships/ charterers/ ship managers are obliged, between the 1st January and 28th February of the next year following the fiscal year, to submit to the Director a Declaration for Taxation (the «Declaration») of the object of the tax and to pay the calculated amount according to the Declaration. The Declaration of the object of the tax is submitted to the Department in hard copy, duly signed and stamped and duly certified by an independent accountant. In addition, a copy of the Declaration should be submitted to the Department electronically through the Department's website: www.shipping.gov.cy . The date of submission of the tax Declaration shall be the date on which the hard copy is received by the Department.

In case the Declaration of an owner of foreign ships or a charterer is not certified by an independent accountant, the Director may require the said person to produce supporting documents with regard to the Declaration.

The Declaration of ship managers must be signed by a duly authorised director of the qualifying ship manager and must always be certified by an independent accountant.

The Director examines the Declaration and -

- (a) either accepts the object of the tax mentioned in the Declaration and imposes the tax accordingly, or
- (b) does not accept the object of the tax, whenever he is of the opinion that the object of the tax of any person is reduced either by transactions which in the reasoned opinion of the Director are artificial or fictitious, or by omissions. In such case, the Director may demand from the person, the submission of additional supporting documents within a timeframe of thirty (30) days. The Director, if not satisfied, may disregard any such transaction or omission and impose the applicable tax.

The imposition of the tax is made by a notice in writing and is served personally or sent by registered mail to the person, within one hundred and twenty (120) days from the date of the submission of the Declaration to the Director or from the date of submission of any requested additional supporting documents to the Director.

In case where the person has paid an amount less than what had been imposed as a result of subparagraph b) described above, then the person is obliged to pay the difference within sixty (60) days from the date the notice for the imposition of the tax was served. In case where the person has paid an amount in excess of what had been imposed, then the Director is obliged to refund the amount of tax paid in excess, within sixty (60) days from the date the notice for the imposition of the tax was served.

If the Declaration is not submitted or if the tax is not paid within the time limits prescribed above, interest shall be charged thereon at the rate of interest determined from time to time by an order of the Minister of Finance by virtue of the provisions of the *Uniform Public Interest of Late Payment Law of 2006 (Law 167(I)/2006)*.

Every person who disputes the imposed tax, may apply, by notice of objection in writing, to the Director for the review and revision of same. The notice must state the grounds of the objection and must be submitted not later than thirty (30) days from the date the notice of imposition of the tax was served.

C/ Special Arrangements – Timeframes for the Fiscal Year 2010

Law 44(I)/2010 came into force as from the fiscal year 2010, beginning on the 1st January 2010.

It is recalled that under section 64(2) of Law 44(I)/2010, qualifying ship managers, who prior to the date of entry into force of the Law were taxed with tonnage tax under the old system by virtue of the Provisions of the repealed Merchant Shipping (Fees and Taxing Provisions) Laws of 1992-2007, are obliged to reconfirm their option to be taxed under the new tonnage tax system according to the Provisions of section 29 of the Law.

Due to the fact that the latest date of exercising the option to enter the new tonnage tax system as from the fiscal year 2010 has *de facto* elapsed (should have been the 30th November 2009, i.e. at least thirty days prior to the 1st January of the relevant year), exceptionally, owners of foreign ships/ charterers/ ship managers opting to be taxed under the tonnage tax system in 2010 should submit their «Application for Approval of the Option to be taxed under the Cyprus Tonnage Tax System» together with the «Declaration for Taxation», between 1st February and 28th February 2011. Relevant documentary evidence shall be submitted only once.

The Director will examine both the Application and the Declaration forms within one hundred and twenty (120) days from the date of their submission. In this case, if the Application is approved, the option will be effective as from 1st January 2010.

Consequently, the deadlines mentioned in sections 7(2), 19 (2) and 29(2) of the Law and paragraph 5(1) of *The Tonnage Tax (Special Provisions on the Levy and Collection) Notification of 2010 (P.I. 417/2010)* do not apply for the fiscal year 2010.

The «Application for Approval of the Option to be taxed under the Cyprus Tonnage Tax System» (Form MS TT 1), the Declaration for Taxation for 2010 (Form MS TT 2) and other supporting documents will be available on the Department's website in the coming days and in any case before the end of January 2011.

Serghios S. Serghiou
Director
Department of Merchant Shipping

Cc: - Permanent Secretary, Ministry of Communications and Works
- Permanent Secretary, Ministry of Finance
- Permanent Secretary, Ministry of Foreign Affairs
- Maritime Offices of the Department of Merchant Shipping abroad
- Diplomatic Missions and Honorary Consular Officers of the Republic
- Commissioner for State Aid Control
- Director, Department of Inland Revenue
- Director General, Cyprus Investment Promotion Agency (CIPA)
- Cyprus Bar Association
- Institute of Certified Public Accountants of Cyprus

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