



REPUBLIC OF CYPRUS
MINISTRY OF
COMMUNICATIONS AND WORKS



DEPARTMENT
OF MERCHANT SHIPPING
LEMESOS

Circular No. 42/2010

TEN 12.3.01.36

TEN 5.13.09

30 December 2010

- All Owners of Ships under Foreign Flag,
Charterers and Ship Managers
operating in the Republic of Cyprus.
- All Members of the Cyprus Shipping Chamber c/o CSC
- All Members of the Cyprus Union of Shipowners c/o CUS

Subject: Tonnage Tax System -The Merchant Shipping (Fees and Taxing Provisions) Law of 2010 (Law 44(I)/2010) – Interpretation of the term Community ship in the cases of Parallel (bareboat Charter) registration

I refer to the above subject and further to my Circulars No. 14/2010 and 28/2010, I wish to inform you that in view of the DMS preparatory work and measures for the smooth implementation of Law 44(I)/2010 (hereinafter referred to as “the Law”), there is an urgent need to clarify the precise definition of the term “Community ship”, especially in cases where qualifying ships for tonnage tax are under the status of *Parallel registration (bareboat Charter registration)*. Therefore you are invited to take note of the following:

1. The issue of the precise definition of the term “Community ship” is regulated by :
 - the definition of the said term contained in **section 2 of the Law** , and
 - the contents of the **Tonnage Tax (Definition of Community Ships) Notification of 2010 (P.I. 354/2010) .**

In section 2 of the Law:

“Community ship” means a ship which –

- (a) is registered in a Member State and flying the flag of a Member State in accordance with its legislation ; and
- (b) is determined by Notification, in compliance with the applicable Community policy-guidelines on State aid to maritime transport, as adopted from time to time by the European Commission ;



Having in mind the above wording, a ship is considered to be a “Community ship” when two concurrent prerequisites apply: the ship is registered in a Member State; and the ship is flying the flag of a Member State in accordance with its legislation.

The flag of a Member State and the corresponding Registers are determined by ***the Tonnage Tax (Definition of Community Ships) Notification of 2010 (P.I. 354/2010)***.

E.g.: A ship flying the French Flag registered in the French International Ship Register (RIF) is a Community Ship.

A ship flying the Dutch Flag, registered in the Dutch Antilles Register is NOT a Community Ship.

2. However, in cases where qualifying ships for tonnage tax fall under the status of the Parallel registration (bareboat Charter registration) in accordance with Cyprus law, the term “Community Ship” must be interpreted to include also the term “Cyprus Ship” which is also defined in section 2 of the Law as follows:

“Cyprus ship” means a ship registered in the Cyprus Register, under the provisions of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963 to 2005 , and it also includes a foreign registered ship registered in the Special Book of Parallel Registration, under the provisions of Part VA of the same Law;

Such cases are codified in the Table of the attached Annex I.

Therefore, a ship registered **parallel - in** (bareboat charter – in) under the *Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963 to 2005 (Law 45 /1963 as amended)* , is registered in Cyprus and is flying the Cyprus flag and therefore also constitutes a Cyprus ship for the purposes of the Law and by analogy is considered to be a Community Ship (see **attached Annex I , Scenario No. 1 : Situation 1 and Situation 2**) .

Also, a ship registered **parallel - out** (bareboat charter – out) under *Law 45 /1963 as amended* , and consequently **flying temporarily a foreign flag**, continues to be considered as a Cyprus ship for the purposes of the Law and by analogy is considered to be a Community Ship (see **attached Annex I , Scenario No. 2 : Situation 3 and Situation 4**) .

3. In cases where qualifying ships for tonnage tax have no registry connection with Cyprus (either as underlying register or as flag register) and consequently their bareboat *Charter registration* is not effected according to Cyprus law, *the term Community Ship* cannot normally be interpreted in the same way as *the term “Cyprus Ship”* as the DMS has a limited power to assess such bareboat charter registration inter-relation between two foreign countries.

Such situations are complex and **are codified in the Table of attached Annex II**.

In order to avoid any eventual discrimination as a result of the specific treatment of the status of Cyprus ships (**see attached Annex I**), the term Community ship can be interpreted, under certain conditions, to include also cases where the underlying register is a Community Ship Register (other than the Cyprus Register) and the vessel is flying temporarily a non- Community flag.

This is allowed when it is evidenced that for tax purposes and for the whole duration of the bareboat charter the ship is considered by the legislation of the relevant Member State (the underlying registry) as a ship of the said Member State. (See attached **Annex II, Scenario No. 2: Situation 1 footnote 5; and Scenario No.3: Situation 4 footnote 5**).

4. Recipients of this Circular are invited to pay close attention to its contents which will be reflected in the relevant DMS practice and procedures adopted for the implementation of Law 44 (I) /2010.

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

SSS/AM

ANNEX I

Parallel Registration effected according to Cyprus Law ¹

<u>Scenarios</u>	Situation 1: Underlying Register is a Community Ship Register ²	Situation 2: Underlying Register is <u>NOT</u> a Community Ship Register	Situation 3: Flag Register is a Community Ship Register	Situation 4: Flag Register is <u>NOT</u> a Community Ship Register
<u>No 1 : Parallel - in registration in Cyprus</u> : the vessel is flying the Cyprus Flag	YES the vessel is a Community ship	YES the vessel is a Community ship	<i>Stricto sensu not applicable :by definition the Flag Register is a Community Ship Register</i>	<i>Not applicable</i>
<u>No 2 : Parallel - out registration from Cyprus</u> : the Cyprus Register is the underlying Register	<i>Stricto sensu not applicable :by definition the Underlying Register is a Community Ship Register</i>	<i>Not applicable</i>	YES the vessel is a Community ship	YES the vessel is a Community ship due to the fact that under Cyprus Law 44(I)/2010 such ship is considered to be a Cyprus ship for tax purposes for the whole duration of the bareboat- out charter registration . ³

¹ According to the provisions of the *Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963 to 2005. (Law 45/1963 as amended).*

² **Community Ship Register** as defined by the *Tonnage Tax (Definition of Community Ships) Notification of 2010 (P.I. 354/2010).*

³ See section 9(6) of Law 44(I)/2010 : “ *On Cyprus ships under the status of parallel registration in a foreign registry tonnage tax is paid in advance at the time the parallel registration is effected and covers the whole period for which the status of parallel registration applies* ”.

ANNEX II

Bareboat Charter registration of a vessel without any registry connection with Cyprus (i.e. effected between two foreign Ship Registers)

<u>Scenarios</u>	<u>Situation 1:</u> Underlying Register is a Community Ship Register ⁴	<u>Situation 2:</u> Underlying Register is <u>NOT</u> a Community Ship Register	<u>Situation 3:</u> Flag Register is a Community Ship Register	<u>Situation 4:</u> Flag Register is <u>NOT</u> a Community Ship Register
<u>No 1 : Bareboat - in registration effected in an EU country (other than Cyprus):</u> <i>the vessel is flying a Community Flag (other than Cyprus flag)</i>	YES the vessel is a Community ship	YES the vessel is a Community ship	<i>Stricto sensu not applicable :by definition the Flag Register is a Community Ship Register</i>	<i>Not applicable</i>
<u>No 2 : Bareboat - in registration effected in a non- EU country:</u> <i>the vessel is flying a Non-Community Flag</i>	NO : the vessel is NOT a Community ship (but exceptionally YES ⁵)	NO : the vessel is NOT a Community ship	<i>Not applicable</i>	<i>Stricto sensu not applicable :by definition the Flag Register is a Non - Community Ship Register</i>
<u>No 3 :Bareboat - out registration effected from an EU country (other than Cyprus) :</u> <i>the underlying Register is a Community Register (other than the Cyprus Register)</i>	<i>Stricto sensu not applicable :by definition the Underlying Register is a Community Ship Register</i>	<i>Not applicable</i>	YES the vessel is a Community ship	NO : the vessel is NOT a Community ship (but exceptionally YES, see footnote 5 below)
<u>No 4 :Bareboat - out registration effected from a non- EU country :</u> <i>the underlying Register is a Non-Community Register</i>	<i>Not applicable</i>	<i>Stricto sensu not applicable :by definition the Underlying Register is a Non- Community Ship Register</i>	YES the vessel is a Community ship	NO : the vessel is NOT a Community ship

⁴ **Community Ship Register** as defined by the *Tonnage Tax (Definition of Community Ships) Notification of 2010 (P.I. 354/2010)*.

⁵ Where the underlying Register is a Community Register, the Cyprus Department of Merchant Shipping (DMS) may examine the relevant national legislation of that Register and if its requirements and provisions are similar to those of the corresponding Cyprus legislation, *inter alia* on fiscal obligations, then the vessel may be exceptionally considered by the DMS as a Community Ship.