

THE MERCHANT SHIPPING (FEES AND TAXING PROVISIONS) LAW OF 2010

(LAW 44 (I)/2010)

**The Tonnage Tax (Special Provisions for the Calculation of the Community Flagged Share ) Notification of 2010 <sup>1</sup>**

(Notification by virtue of sections 15(2), 15(3)(b), 25(2)(c), 25(3)(b) , 35(1)(b) and 35 (2)(b) of the Law)

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 15(2), 15(3)(b), 25(2)(c), 25(3)(b) , 35(1)(b) and 35 (2)(b), 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 (Special Provisions for the Calculation of the Community Flagged Share) Notification of 2010.

*Interpretation.*

**2.** —(1) In this Notification -

*P.I. 354/2010.*

“Community ship” means such a ship as defined by the Law and the *Tonnage Tax (Definition of Community Ships) Notification of 2010*.

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

“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*.

---

<sup>1</sup> **Editorial Note:** Published in the Official Gazette of the Republic of Cyprus No. 4469, Supplement III(I) , dated 31.12.2010. 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.**

**Disclaimer:** This translated document is intended for use as a documentation tool and the Department of Merchant Shipping of the Republic of Cyprus does not assume any liability for its content.

“reference ships” means:

(a) any qualifying ships engaged in a qualifying shipping activity :

(i) included in the tonnage tax system; or

(ii) excluded from the tonnage tax system by the effect of a reason as provided by the Law;

and

(b) any non -qualifying ships.

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

*Scope of application of the present Notification .*

3. This Notification applies to any qualifying owner of a fleet of ships comprising Community and non-Community ships, or any qualifying charterer of a fleet of ships comprising Community and non-Community ships , or any qualifying ship manager, mentioned respectively in sections 6 (1)(c) , 18(1)(c) and 28 of the Law.

*PART I: CALCULATION OF THE COMMUNITY - FLAGGED SHARE  
AT THE LEVEL OF A COMPANY'S FLEET*

*Method for calculating the Community –flagged share at the level of a company's fleet.*

4.—(1) The Community-flagged Share (or Community Share) of a Company is the percentage of its fleet in terms of net tonnage which is under Community flag. It is calculated using all the *reference ships* that are owned, chartered or managed by the Company separately on a sectoral basis.

**Community-flagged share = (CFT/TT) X 100%**

where:

CFT: community-flagged net tonnage

TT: total net tonnage of the fleet

(2) In the case of a group of companies:

(a) The Community flagged-Share is calculated for the group on a sectoral basis. Those companies which are members of the group and belong to the same sector (shipowners, charterers, shipmanagers) are taken together on a consolidated basis as provided by sections 6(2), 18(2) and 28(2) of the Law.

(b) Notwithstanding the provisions of (a) above, and subject to the provisions of section 6(1)(c) and 6 (2) (a) of the Law , Cyprus ships owned by other member (s) of the group will be taken into account for companies owning foreign ships which are members of the group.

(c) Notwithstanding the provisions of (a) above, and subject to the provisions of section 47 of the Law, Cyprus and foreign flagged ships owned by other member(s) of the group will be taken into account for qualifying chartering companies ( qualifying charterers ) which are members of the group.

(3) Notwithstanding the provisions of the definition of the term “*reference ships*” in paragraph 2 of this Notification and the provisions of subparagraphs (1) and (2) of this paragraph , a qualifying owner , qualifying charterer or qualifying ship manager , as the case may be, at the time of opting to be taxed under the tonnage tax system may request that the *reference ships* to be taken into account for the calculation of the Community –flagged share shall be only all its qualifying ships (as mentioned in the definition of the term “*reference ships*”) without taking into account any non-qualifying ships. Provided that the obligation to declare all the ships , qualifying and non – qualifying , continues to apply .

(4) The above designation of the *reference ships* resulting from the provisions of subparagraphs (1) or (3) above ( i.e. either the qualifying ships and non – qualifying ships / or only the qualifying ships ) shall be binding for the whole period the qualifying owner, qualifying charterer or qualifying ship manager as the case may be, remains in the tonnage tax system .

*Reference Share and relevant commitment of the company or group of companies.*

**5.—**(1) The Community-flagged share is calculated from the data contained in the application of a company to enter the tonnage tax system or in the application of a group of companies to enter the tonnage tax system, and shall be referred to as the *Reference Share*.

(2) For the purposes of implementing the provisions of sections 15(2)(b)(ii), 25(2)(b)(ii), 35(1)(a)(ii)(B) of the Law, the company or the group of companies shall make the commitment to maintain or increase their *Reference Share* within a period of three years (expiring on the 31<sup>st</sup> December of the third year) from the date of opting to be taxed under the tonnage tax system (*option date*) .

(3) For the purposes of implementing the provisions of sections 15(5), 25(5) and 35(4) of the Law, the Director shall carry an assessment of the Community-flagged share of each company or

group of companies upon the expiry of the third year (on the 31<sup>st</sup> December) as from the aforementioned date of opting to be taxed under the tonnage tax system, and thereafter a further assessment every three years during the validity of the tonnage tax regime under the Law .

*Option date to be taxed under the tonnage tax system.*

**6.**—(1) *Option date* shall mean the date of receipt by the Department of the application of a company to enter the tonnage tax system, provided that such application is approved by the Director.

(2) In the case of a company being a member of a group of companies, the option date shall mean the date of receipt by the Department of the application of the whole group to enter the tonnage tax system. But where there are different dates of receipt of applications by the Department for a group of companies, the option date shall be taken to be the first date of receipt of such applications .

*Non – preservation of the Reference Share : additional non -Community ships shall be deemed as non -qualifying ships .*

**7.** In the case of a company or a group of companies, whose Community-flagged share as calculated at the end of the three year period from the date of opting to be taxed under the tonnage tax system or at the end of any three year period thereafter is less than the Reference Share (unless is over 60%), then until the company or the group of companies raises its Community-flagged share back to the Reference Share as a minimum, any additional non - Community ships which the company or group of companies owns, charters or manages shall be considered as non - qualifying ships and shall not enter the tonnage tax system. In such a case the provisions of section 50 of the Law shall apply.

*Non – preservation of the Reference Share : additional non -Community ships shall be deemed as qualifying ships using the provisions of the Global Share.*

**8.**—(1) During the period in which the company or the group of companies is not allowed to include non - Community ships in the tonnage tax system, as a result of the provisions of paragraph 6 above, the company or the group of companies will be able to include additional non - Community ships in the tonnage tax system using the provisions as the case may be of sections 15(3) (a), 25 (3) (a) and 35(2) (a) of the Law and of Part II of the present Notification relating to the Community-flagged share of the relevant global tonnage eligible for tonnage tax in the Republic ( *Global Share* ) .

(2) Where the provisions of subparagraph (1) above apply, the said owner, charterer or ship manager shall be subject by virtue of the provisions of sections 15(4), 25(4) and 35(3) of the Law to an increase of ten per cent (10%) on the total amount of tonnage tax payable for all the qualifying non- Community ships in his fleet .

*Example of the method for calculating the Community – flagged share at the level of a company’s fleet.*

*Schedule I .*

**9.** In order to illustrate the provisions of paragraphs 4 to 7 above, a practical example is contained in Schedule I of the present Notification.

*PART II : CALCULATION OF THE COMMUNITY-FLAGGED SHARE OF THE RELEVANT GLOBAL TONNAGE ELIGIBLE FOR TONNAGE TAX IN THE REPUBLIC OF CYPRUS*

*Global Share: Issue of Circular by the Director.*

**10.** —(1) Subject to the provisions of paragraph 8 of this Notification and for the purposes of implementing sections 15(3) (a), 25 (3) (a) and 35(2) (a) of the Law, the Director by the virtue of a circular will inform whether during the year under examination the Global Share has remained unchanged, decreased or increased. If the Global Share has remained unchanged or increased, companies with their Community-flagged share reduced may take advantage of the Global Share to include additional non-Community ships in the tonnage tax system.

(2) The first circular will be issued by the Director by the 31<sup>st</sup> October, 2012 and on the same date every year thereafter.

*Method of calculation of the Community-flagged share of the relevant global tonnage eligible for tonnage tax in the Republic.*

**11.** —(1) For the purposes of this Part of the present Notification, the *Global Share* means the three year rolling weighted average share of the Community ships to the aggregate net tonnage of all qualifying ships eligible for tonnage tax in the Republic in each category of qualifying shipping activities, i.e. the qualifying owners, charterers, ship managers taken separately (sectoral approach).

$$\text{Global share} = \frac{(\text{ACFT})_t + (\text{ACFT})_{t-1} + (\text{ACFT})_{t-2}}{(\text{AT})_t + (\text{AT})_{t-1} + (\text{AT})_{t-2}} \times 100\%$$

where:

ACFT: aggregate net tonnage of the qualifying Community ships of all tonnage tax companies of the relevant sector that are included in the tonnage tax system of the relevant sector .

AT: aggregate net tonnage of all qualifying ships of all tonnage tax companies of the relevant sector.

t: reference (latest) year (as at 31<sup>st</sup> December).

(2) The *Global Share* shall be calculated separately on a sectoral basis (as the case may be, for owners, charterers, ship managers). That is, three distinct Global Shares will be calculated and publicly announced by the Director: the Global Share for owners of a fleet comprising Community and non-Community ships; the Global Share for charterers of a fleet comprising Community and non-Community ships; and the Global Share for ship managers.

*Example  
on the  
method for the  
calculation  
of the  
Community-flagged  
share of the  
relevant  
global tonnage  
eligible for  
tonnage tax  
in the Republic.*

*Schedule II .*

**12.** In order to illustrate the provisions of paragraphs 10 and 11 above, a practical example is contained in Schedule II of the present Notification.

DMS Version

## SCHEDULE I

### PRACTICAL EXAMPLE ON THE METHOD FOR THE CALCULATION OF THE COMMUNITY - FLAGGED SHARE AT THE LEVEL OF A COMPANY'S FLEET - FLEET CHANGES

Company A enters the Tonnage Tax System (TTS) in the fiscal year 2010 with a **Reference Share** of **20%**.

*Change 1:* On 31/12/2012 when the first three year period ends, the company operates ships of 150,000 net tons. The 100,000 net tons are under the TTS and the rest 50,000 net tons represent non -qualifying ships. The 35,000 net tons out of the 100,000 correspond to Community ships.

The Community share on 31/12/2012 is:

$$(35,000/150,000) \times 100 = 23.33\%$$

The Community share on 31/12/2012 is higher than the Reference Share (23.33% > 20%). Thus, for the next three year period (01/01/2013 – 31/12/2015), all the ships that the company will begin to operate will enter the TTS, irrespective of whether they are Community or non - Community ships.

On 01/03/2013, Company A begins to operate a new non - Community ship of 30,000 net tons. As derives from the above paragraph, the ship will enter the TTS.

*Change 2:* If there are no more changes in its fleet for the rest of the three year period (01/01/2013 – 31/12/2015), then on 31/12/2015 when the second three year period ends, the Community share of Company A will be:

$$(35,000/180,000) \times 100 = 19.44\%$$

The Community share on 31/12/2015 is lower than the Reference Share (19.44% < 20%). Thus, until the company raises its Community-flagged share back to 20%, ships that the company will start to operate will enter the TTS only if they are Community ships. In the case they are non -Community ships, the company shall maintain separate books, records and accounts (separate accounting) for those ships as provided by section 44 of the Law, and those ships shall be taxed with corporate-income tax by the Department of Inland Revenue (unless the ships enter the tonnage tax system under the provisions of the Global Share).

Change 3: On 10/08/2016 Company A begins to operate a new non - Community ship of 10,000 net tons. As derives from the previous *change - paragraph*, the ship will not enter the TTS since it is a non - Community ship. The company shall keep separate accounting for this ship and the ship shall be taxed with corporate-income tax by the Department of Inland Revenue (unless the ship enters the tonnage tax system under the provisions of the Global Share). The Community share has dropped to 18.42%.

Change 4: On 15/04/2017 Company A begins to operate a new Community ship of 50,000 net tons. Since it is a Community ship, it will enter the TTS.

The Community share of the company on 31/12/2017 changes to:

$$(85,000/240,000) \times 100 = 35.42\%$$

Change 5: Company A has raised its Community share to 35.42% which is higher than its Reference Share. Thus, from 01/01/2018 and until the end of the third three year period (31/12/2018), all the ships that the company will begin to operate will enter the TTS, irrespective of whether they are Community or non - Community ships. The non - Community ship which the company began to operate on 10/08/2016 and which did not enter the TTS due to the low Community share of the company at that time, shall enter the TTS as from 01/01/2018. The said specific ship is taxed for the fiscal years 2016 and 2017 by the Department of Inland Revenue on the basis of corporate-income tax, and from 01/01/2018 onwards will be subject to tonnage tax (unless the ship enters the tonnage tax system earlier under the provisions of the Global Share). The above change does not affect the company's Community share (still 35.42%).

Change 6: On 01/09/2018 Company A ceases the operation of a Community ship of 50,000 tons. This ship is no longer a tonnage tax ship.

The Community share of the company on 31/12/2018 is:

$$(35,000/190,000) \times 100 = 18.42\%$$

The Community share on 31/12/2018 is lower than the Reference Share (18.42% < 20%). Thus, until the company raises its Community share up to 20%, ships that the company will begin to operate will enter the TTS only if they are Community ships. In the case they are non -Community ships, the company shall maintain separate books, records and accounts (separate accounting) for those ships as provided by



section 44 of the Law, and those ships will be taxed with corporate-income tax by the Department of Inland Revenue (unless the ships enter the tonnage tax system under the provisions of the Global Share).

The above mentioned changes are summarised in the Table below:

<b>Changes</b>	<b>Date</b>	<b>Company's fleet</b>	<b>Company's fleet in TTS</b>	<b>Community ships tonnage</b>	<b>Non - Community ships tonnage</b>	<b>Community share (%)</b>
<i>Change 1</i>	31/12/2012	150,000	100,000	35,000	115,000	23.33
<i>Change 2</i>	31/12/2015	180,000	130,000	35,000	145,000	19.44
<i>Change 3</i>	31/12/2016	190,000	130,000	35,000	155,000	18.42
<i>Change 4</i>	31/12/2017	240,000	180,000	85,000	155,000	35.42
<i>Change 5</i>	01/01/2018	240,000	190,000	85,000	155,000	35.42
<i>Change 6</i>	31/12/2018	190,000	140,000	35,000	155,000	18.42

## SCHEDULE II

PRACTICAL EXAMPLE ON THE METHOD FOR THE  
CALCULATION OF THE COMMUNITY-FLAGGED SHARE OF THE RELEVANT GLOBAL  
TONNAGE ELIGIBLE FOR TONNAGE TAX IN THE REPUBLIC FOR A SPECIFIC PERIOD  
(GLOBAL SHARE)

The following data relate as an example to the total number of the ship management companies which have entered the Cyprus Tonnage Tax System (TTS).

Date	Aggregate Community- flagged net tonnage (ACFT)	Aggregate total net tonnage in the TTS (ATT)
31/12/2010	100,000	330,000
31/12/2011	105,000	340,000
31/12/2012	93,000	360,000
31/12/2013	113,000	380,000
31/12/2014	120,000	385,000

Year under examination 2011 (calculation completed and announced by 31/10/2012):

Global Share (GS) for 2010 (as at 31/12/2010) =  $100,000 / 330,000 = 30.30\%$

GS 2011 [average of 2010-2011] =  $[(ACFT\ 2010 + ACFT\ 2011) / (ATT\ 2010 + ATT\ 2011)] \times 100 = [(100,000 + 105,000) / (330,000 + 340,000)] \times 100 = (205,000 / 670,000) \times 100 = 30.60\%$

The GS for 2011 increased (30.60% > 30.30%) in comparison to the respective share for 2010.

Year under examination 2012 (calculation completed and announced by 31/10/2013):

GS 2012 [average of 2010-2012] =  $[(ACFT\ 2010 + ACFT\ 2011 + ACFT\ 2012) / (ATT\ 2010 + ATT\ 2011 + ATT\ 2012)] \times 100 = [(100,000 + 105,000 + 93,000) / (330,000 + 340,000 + 360,000)] \times 100 = (298,000 / 1,030,000) \times 100 = 28.93\%$

The GS for 2012 decreased (28.93% < 30.60%) in comparison to the respective share for 2011.

Year under examination 2013 (calculation completed and announced by 31/10/2014):

GS 2013 [average of 2011-2013] = **28.80%**

The GS for 2013 decreased (28.80% < 28.93%) in comparison to the respective share for 2012.

Year under examination 2014 (calculation completed and announced by 31/10/2015):

GS 2014 [average of 2012-2014] = **28.98%**

The GS for 2014 increased (28.98% > 28.80%) in comparison to the respective share for 2013.

---

DMS Version

**DMS VERSION 31 December 2010 Final**