

THE MERCHANT SHIPPING (FEES AND TAXING PROVISIONS) LAW OF 2010
(LAW 44 (I)/2010)

The Tonnage Tax for Ship Managers (Special Provisions and Requirements)

Notification of 2010 *

(Notification by virtue of sections 33(4), 36(2)(b) and 37 (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 33(4), 36(2)(b) and 37(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 for Ship Managers (Special Provisions and Requirements) Notification of 2010.

Interpretation.

2. — (1) In this Notification -

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

“Crew manager” means the crew manager as defined in section 2 of the Law;

“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;

“ISM certificates” means the certificates issued pursuant to the ISM Code, as this Code is defined in section 2 of the Law;

“Law” means the *Merchant Shipping (Fees and Taxing Provisions) Law of 2010*;

* Editorial Note: Published in the Official Gazette of the Republic of Cyprus No. 4466, Supplement III(I), dated 17.12.2010. 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.

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“Member State” means a Member State as defined in section 2 of the Law;

“MLC Convention” means the Convention as defined in section 2 of the Law;

“special form” means as the case may be, either the Form for the Application to enter the tonnage tax system, or the Tax Declaration Form, filled and submitted by the TT company according to the provisions of the Law, as such form is specified from time to time by the Director with a circular;

“tonnage tax company” or “TT company”, means any qualifying ship manager, mentioned in section 28 of the Law.

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

*PART I: ECONOMIC LINK BETWEEN THE MANAGED SHIPS AND
THE COMMUNITY*

*Documentary
evidence
required
regarding the
management of the
2/3 of the fleet
from the territory
of the Community.*

3. — (1) For the purposes of implementing the provisions of section 33(4) of the Law and specifically for the purposes of proving the compliance of a qualifying ship manager with the requirements of section 33(2)(a) of the Law, each applicant TT company shall complete the relevant tables in the special form setting out all the information required for the calculation of the total net tonnage of the qualifying ships, entirely managed from the territory of any Member State.

(2) With respect to qualifying ships, the technical management and crew management of which is not carried out by the same applicant TT company, but by another ship manager, the information regarding the different manager (name; IMO number of the management company- if such number exists; and the State from which it carries out its activity) must be set out in the tables of the special form in the following manner :

- i) in case the TT company provides only crew management services for a particular qualifying ship, the name, the IMO number of the company (if such number exists) of the different ship manager which provides technical management services to the particular ship and the State from which it carries out its activity must be set out in the relevant tables.
- ii) in case the TT company provides only technical management services for a particular qualifying ship, the name, the IMO

number of the company (if such number exists) of the different ship manager which provides crew management services to the particular ship and the State from which it carries out its activity must be set out in the relevant tables.

iii) in case the TT company provides simultaneously crew and technical management services for a particular qualifying ship, it must be mentioned in the relevant tables that the management of the particular ship is entirely conducted from the territory of the Republic.

(3) The special form together with its applicable tables should be submitted to the Department in hard copy and electronically. The date of submission of the hard copy shall be the official date of filling the special form.

(4) For the purposes of compliance with the provisions of section 33 (2)(a) of the Law, the special form shall also include comprehensive practical examples of the method of calculation of the relevant rule of the 2/3 share.

(5) Notwithstanding the provisions of subsections (1) to (4) above, each applicant TT company shall confirm via the special form its compliance or its non-compliance with the requirements of section 33(2) of the Law.

(6) The Director, may from case to case also request that the TT company submits additional information, such as:

- a) copies of ISM certificates of the qualifying ships under management and of their managers ;
- b) copies of the agreements for the undertaking of ship and crew management;
- c) extracts from the relevant internal records of the TT company;
- d) any other relevant information which the Director may deem necessary.

PART II : ADDITIONAL REQUIREMENTS FOR CREW MANAGERS

Documentary evidence required regarding compliance by a qualifying Crew Manager with the MLC 2006 obligation of compulsory insurance for liability for claims in the event of death or long-term disability of seafarers .

Schedule I.

4. — (1) For the purposes of implementing the provisions of section 36(2) of the Law, the Director shall request from each TT company, acting as a crew manager, at the date of opting to be taxed under the tonnage tax system and subsequently at the end of every fiscal year, to submit a written Statement in accordance with the standard model designated in Schedule I of the present Notification, which shall confirm the relevant compliance of a *qualifying Crew Manager with the obligation of providing financial security for liability for claims in the event of death or long-term disability of seafarers by virtue of the MLC Convention.*

(2) The Statement as provided in subparagraph (1) above shall be submitted to the Director between the **1st January and the 28th of February** of the next year following each fiscal year together with the Tax Declaration.

(3) The Director, may from case to case also request that the TT company submits additional information , such as:

- a) a certificate or declaration issued by a Protection and Indemnity Club (P&I Club), which shall confirm that the relevant liability of the ship owner, according to section 36(2)(a) of the Law, regarding the managed crew is covered by virtue of a relevant insurance or other financial security (e.g. bank guarantee);
- b) copies of the crew management agreements;
- c) copies of the individual contracts of employment of the seafarers under crew management;
- d) copy of the relevant *Certificate of Entry* between the TT company and a P&I Club recognised by the Flag State of the ship on board which the managed crew is employed ;
- e) the name and address of the P&I Club or other institution which provides the insurance or other financial security;
- f) the period of validity of the relevant insurance or other financial security for the managed crew of a particular ship;
- g) any other relevant information which the Director may deem necessary.

Form of a written Statement made by a qualifying Crew Manager regarding the obligation to conclude private contractual arrangements for compliance with the MLC 2006 provisions .

5. — (1) For the purposes of implementing the provisions of section 37(b) of the Law, the Director shall request from each TT company, acting as a crew manager, at the date of opting to be taxed under the tonnage tax system and subsequently at the beginning of each fiscal year (**until the 28th of February**), to submit a written Statement in accordance with the standard model designated in Schedule II of the present Notification, which shall confirm the fulfillment of the obligation of a Crew Manager *to conclude private contractual arrangements for compliance with the provisions of the MLC Convention.*

(2) The Director, may from case to case also request that the TT company submits additional information , such as:

- a) copies of the crew management agreements;
- b) copies of the individual contracts of employment of the seafarers under crew management;
- c) any other relevant information which the Director may deem necessary.

PART III : FINAL PROVISIONS

Qualifying Ship managers : qualifying tugs and dredgers.

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6. For the purposes of implementing paragraphs 3 to 5 of the present Notification, for qualifying ship managers mentioned in section 28(1) of the Law and which are assigned with the management of a qualifying tug or a qualifying dredger, the provisions of *the Tonnage Tax (Towage and Dredging Activities) Notification of 2010* and more specifically the provisions of paragraph 11 of the said Notification, shall also apply.

SCHEDULE I

STATEMENT REGARDING COMPLIANCE OF A QUALIFYING CREW MANAGER
WITH THE OBLIGATION OF PROVIDING FINANCIAL SECURITY FOR LIABILITY
FOR CLAIMS IN THE EVENT OF DEATH OR LONG-TERM DISABILITY OF
SEAFARERS BY VIRTUE OF THE MLC CONVENTION

Declaration by virtue of section 36 (2) of the Law 44(I)2010

To: Director of the Department of Merchant Shipping

Republic of Cyprus

Limassol

I, the undersigned¹(identity no. / passport no.) from² legally representing the company³ (the “Company”) acting in the capacity of [**Director/ Secretary/ Managing Director/ Authorised Representative⁴**], which [**is already admitted to the Cyprus Tonnage Tax system/ applies for its admission to the Cyprus Tonnage Tax system⁵**] in its capacity as a qualifying ship manager - Crew Manager, by virtue of my present Statement , made pursuant to the *Tonnage Tax for Ship Managers (Special Provisions and Requirements) Notification of 2010*, hereby confirm for and on behalf of the Company that the provisions of section 36(2)(a) of the *Merchant Shipping (Fees and Taxing Provisions) Law of 2010 (Law 44(I)/2010)* [**have been fully complied with/ were fully complied with during the tax year⁶**] in relation to all relevant qualifying ships under crew management , and therefore the ship owner’s liability of the said ships, according to the relevant provisions of the MLC Convention (Regulation 4.2. and Standard A4.2 of Title 4 of the MLC Convention) is covered either by the ship owner itself, or by the Company, with a financial security to meet claims of contractual compensation in the event of the death or long-term disability of the seafarers due to an occupational injury, illness or hazard.

¹ Name and Surname of physical person making the Statement.

² Address, residence of physical person making the Statement.

³ Name of qualifying ship management company (Crew Manager).

⁴ Insert as appropriate.

⁵ Insert as appropriate.

⁶ Insert as appropriate.

I, confirm on behalf of the Company that all of the above information is true and correct and accurately corresponds with the entries in the relevant records and documents maintained by the Company in relation to the provision of crew management services, and acknowledge that any false or inaccurate Statement may constitute a criminal offence by virtue of the Cyprus legislation currently in force .

I, further, declare that I acknowledge that non - compliance of the above mentioned company with the provisions of section 36 (2)(a) of Law 44(I)/2010 constitutes a **criminal offence** by virtue of **section 38** of the same Law, punishable with **imprisonment for a term not exceeding two years or with a fine not exceeding EURO 20,000 or with both sentences.**

Signature

Date

Seal

SCHEDULE II

STATEMENT OF A QUALIFYING CREW MANAGER REGARDING THE OBLIGATION
TO CONCLUDE PRIVATE CONTRACTUAL ARRANGEMENTS FOR COMPLIANCE
WITH THE MLC CONVENTION PROVISIONS

Declaration by virtue of section 37 (b) of the Law 44(I)2010

To: Director of the Department of Merchant Shipping

Republic of Cyprus

Limassol

I, the undersigned¹(identity no. / passport no.²) from³ legally representing the company³ (the "Company") acting in the capacity of [**Director/ Secretary/ Managing Director/ Authorised Representative**⁴], which [**is already admitted to the Cyprus Tonnage Tax system/ applies for its admission to the Cyprus Tonnage Tax system**⁵] in its capacity as a qualifying ship manager- Crew Manager, by virtue of my present Statement , made pursuant to the *Tonnage Tax for Ship Managers (Special Provisions and Requirements) Notification of 2010*, hereby confirm for and on behalf of the Company that the provisions of the *MLC Convention* [**are fully complied with/ were fully complied with during the tax year**⁶] in relation to all relevant qualifying ships under crew management , by the seafarer's employer, be it the ship owner or the crew manager itself and that private contractual arrangements between the crew manager and the ship owner [**have been concluded/ will be concluded** ⁷] with respect to all ships and crew members being under its management, as required by the provisions of section 37(a) of *the Merchant Shipping (Fees and Taxing Provisions) Law of 2010 (Law 44(I)/2010)*.

¹ Name and Surname of physical person making the Statement.

² Address, residence of physical person making the Statement.

³ Name of qualifying ship management company (Crew Manager).

⁴ Insert as appropriate.

⁵ Insert as appropriate.

⁶ Insert as appropriate.

⁷ Insert as appropriate

I, confirm on behalf of the Company that all of the above information is true and correct and accurately corresponds with the relevant records and documents maintained by the Company in relation to the provision of crew management services, and acknowledge that any false or inaccurate Statement may constitute a criminal offence by virtue of the Cyprus legislation currently in force .

I, further, declare that I acknowledge that non- compliance of the above mentioned company with the provisions of section 37 (c) of Law 44(I)/2010 constitutes a **criminal offence** by virtue of **section 38** of the same Law, punishable with **imprisonment for a term not exceeding two years or with a fine not exceeding EURO 20,000 or with both sentences.**

Signature

Date

Seal