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By George Zambartas, BA, Solicitor
L.G. Zambartas LLC, Law Offices

Benefits of the new Cyprus tonnage tax law (the "Law") applicable to shipowners, charterers and shipmanagers

Main provisions of the new Merchant Shipping (Fees & Taxing Provisions) Law (N. 44 (I)/2010)

Introduction

- Approval of the new Cyprus tonnage tax system ("TTS") by the European Commission on 24th March 2010
- The House of Representatives enacted the Merchant Shipping (Fees and Taxing Provisions) Law of 2010 (No. 44(I)/2010) on 29th April 2010
- The Law came into force on 1st January 2010.

Why is this a significant development for the shipping industry?

- Simplified tonnage tax system which was approved by the European Commission.
- Cyprus is the only EU member state with an open registry which has received approval of such a tonnage tax system.

Aim of the Law

Harmonisation of the two previous Cypriot guidelines on State Aid to Maritime Transport:

- a) for the owners of foreign flagged vessels
- b) for the charterers of vessels from any jurisdiction

General information on the new TTS

The new TTS provides favourable tax provisions for:

- Owners of Cyprus flag vessels.
- Owners of foreign flag vessels.
- Charterers from any jurisdiction.
- Shipmanagers that provide crew and/or technical shipmanagement services.



Beneficiaries

The TTS is available to every **shipowner, charterer or shipmanager** who owns charters or manages a **qualifying ship** in a **qualifying shipping activity**. Whoever chooses to enter the TTS is not obliged to pay income tax and they have to pay tonnage tax.

The tonnage tax is calculated on the net tonnage of the vessel according to a broad range of bands and rates that are prescribed in the legislation. The rates applicable to shipmanagers are 25% of those applied to shipowners and charterers.

In general for the new TTS

The income tax exemptions cover:

- Profits from shipping operations.
- Profits from the sale of vessels.
- Profits from interest on funds used as working capital (with the exception of interest on investment capital).
- Profits from dividends paid directly or indirectly out of profits resulting from shipping operations.

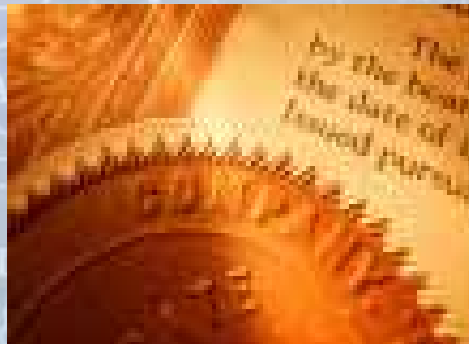


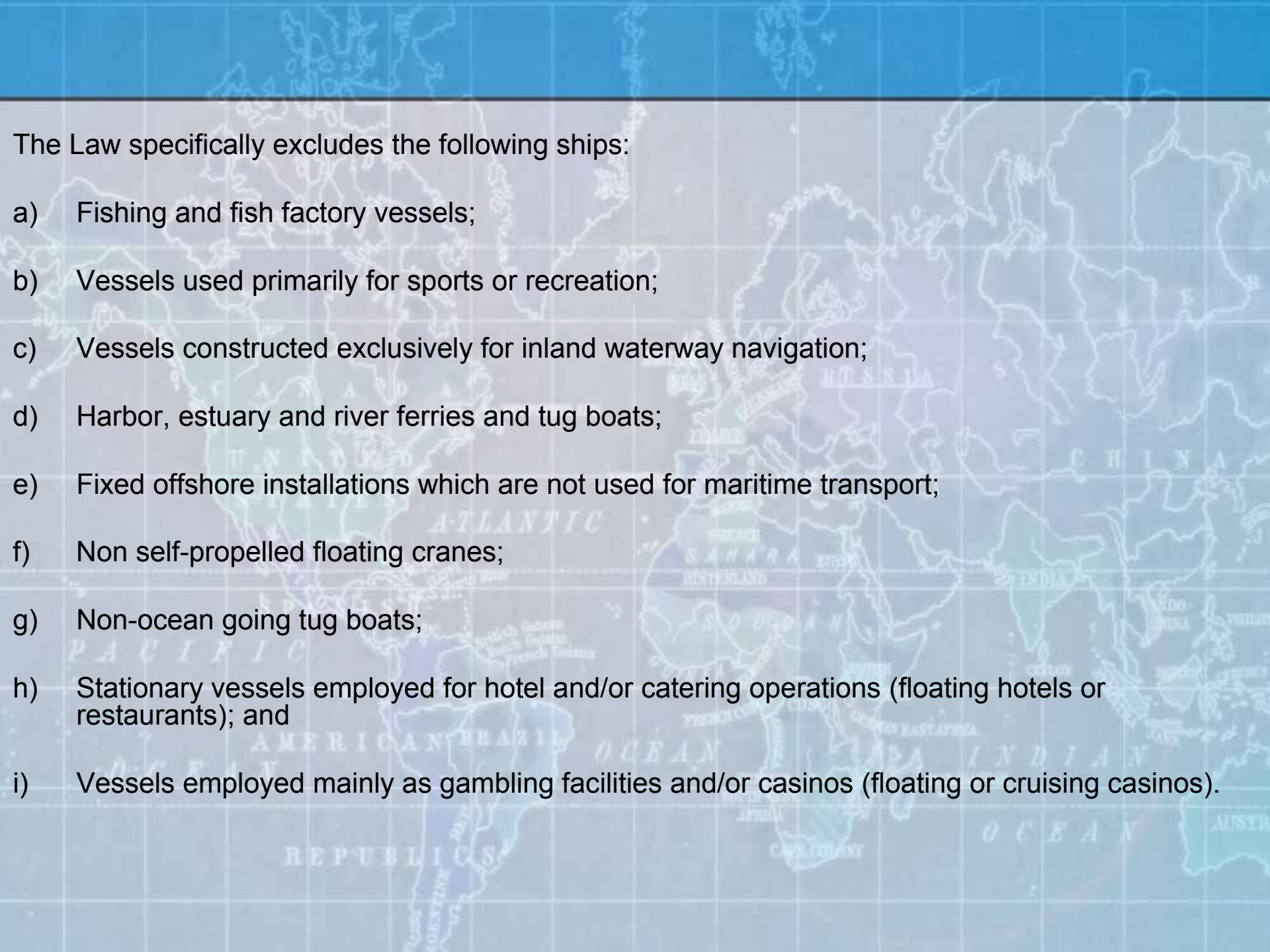
Admission to TTS

- The **shipowners of Cyprus flagged vessels** are admitted to TTS automatically (obligatory).
- The **shipowners of foreign flagged vessels**, the **charterers** and the **shipmanagers** have the option either to be admitted to TTS or to be taxed on corporate tax (10%). If they are admitted to TTS they shall have to remain in it for a period of 10 years from their date of admission. Early withdrawal from TTS will result in penalties.

Qualifying Ship

Every seaworthy ship certified under applicable international or national rules and regulations and registered in the ship register of any member of the International Maritime Organization (IMO) or the International Labour Organization, (ILO) which are recognised by the Republic of Cyprus.





The Law specifically excludes the following ships:

- a) Fishing and fish factory vessels;
- b) Vessels used primarily for sports or recreation;
- c) Vessels constructed exclusively for inland waterway navigation;
- d) Harbor, estuary and river ferries and tug boats;
- e) Fixed offshore installations which are not used for maritime transport;
- f) Non self-propelled floating cranes;
- g) Non-ocean going tug boats;
- h) Stationary vessels employed for hotel and/or catering operations (floating hotels or restaurants); and
- i) Vessels employed mainly as gambling facilities and/or casinos (floating or cruising casinos).

Qualifying Shipping Activity

Any commercial business or activity which constitutes maritime transport, or crew or technical management of a qualifying ship.

Maritime Transport

Means the carriage of goods and passengers, towage, dredging and cable laying as well as ancillary services such as all hotel activities and accommodation activities, entertainment and retailing activities on board a vessel, loading and unloading of cargo on a qualifying ship operated by the qualifying owner or the qualifying charterer (including the moving of containers within a port area immediately before or after the voyage).



Community Ship:

Means a ship which (a) is registered in a Member State of the EU and (b) is determined by Notification No. 354/2010 issued by the Department of Merchant Shipping which states in addition to the said registers of the EU and the registers of the European Economic Area (EEA) / EFTA States; i.e. Denmark, Norway, Iceland and Lichtenstein and others.

Fleet:

Means two or more ships owned, directly or indirectly by the same person or persons or by companies directly or indirectly owned by such person or persons or by companies forming part of the same Group.

Group:

Means two or more companies which have, directly or indirectly a holding (parent) / subsidiary relation or which are, directly or indirectly, subsidiaries of the same holding (parent) company.

I) TAXATION OF SHIPOWNERS

Qualifying owners subject to tonnage tax

- i) an owner of a Cyprus ship or a Bareboat Charterer of a ship registered parallel-in under the Cyprus flag subject to the ship being a qualifying ship engaged in qualifying shipping activity; or
- ii) a tax resident owner of a Community ship (i.e. owner of foreign ships) who has opted to be taxed under the tonnage tax system and the ship is a qualifying ship engaged in a qualifying shipping activity; or
- iii) a tax resident owner of a fleet of ships (i.e. owner of foreign ships) comprising Community and non-Community ships who has opted to be taxed under the tonnage tax system and the qualifying ships are engaged in a qualifying shipping activity and additionally meet certain other criteria set out in section 15 of the Law, namely at the time of opting to be taxed under the tonnage tax system.

CYPCO

**TAX RESIDENT OF A FLEET
OF SHIPS**

CYPCO 1

**COMMUNITY
SHIP**

CYPCO 2

**COMMUNITY
SHIP**

CYPCO 3

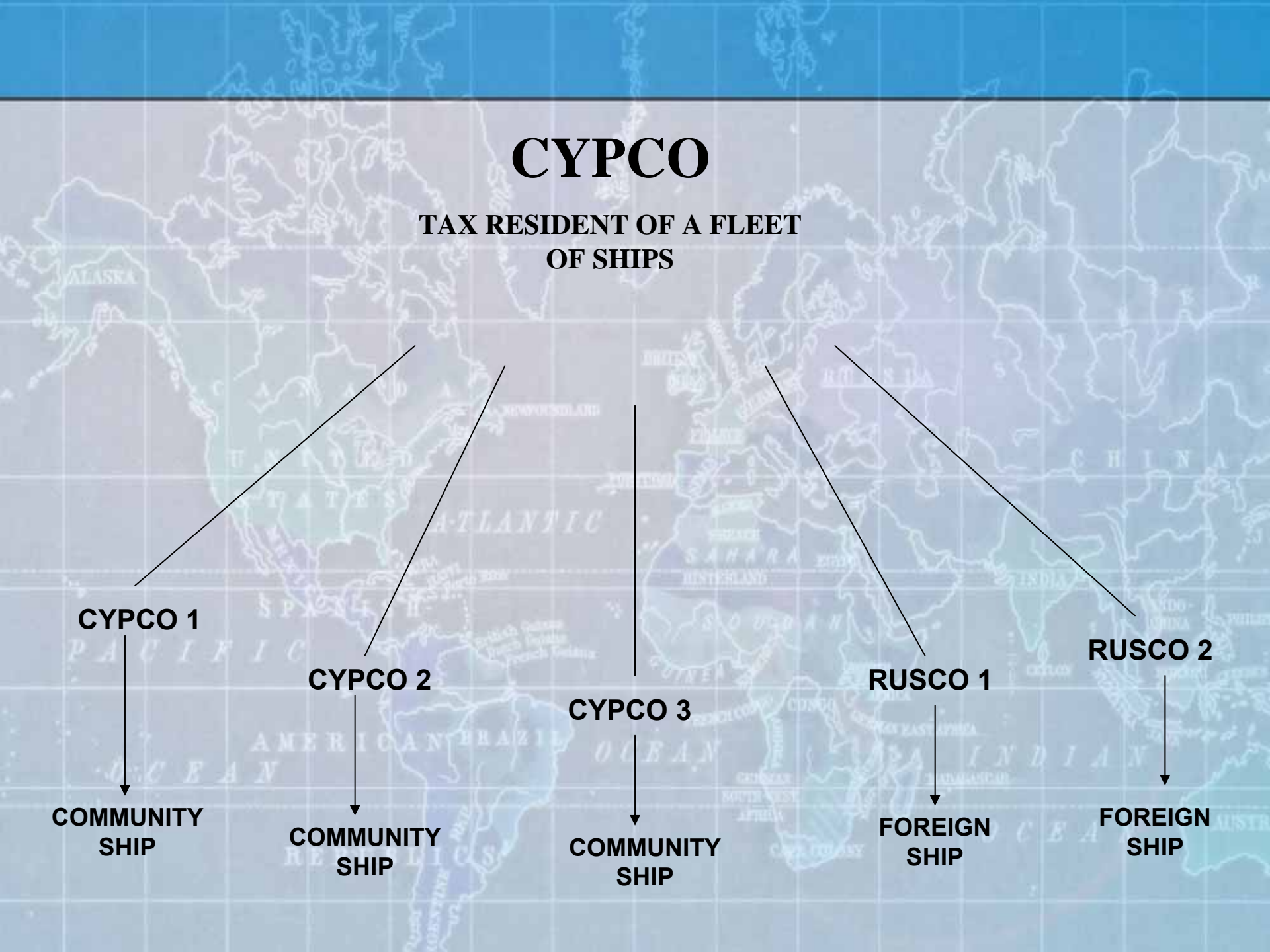
**COMMUNITY
SHIP**

RUSCO 1

**FOREIGN
SHIP**

RUSCO 2

**FOREIGN
SHIP**



2. Exemption from income tax of qualifying owners

For a qualifying owner operating a qualifying ship in qualifying shipping activity (the “Ship”) no tax is charged, levied or collected on the following:

- i) upon the **income** derived from the operation of the Ship; or
- ii) upon the **dividend** paid to the shareholders or the members of the said owner, out of profits made from the operation of the Ship in any relevant qualifying shipping activity or made from the sale of the Ship and / or any share, right and/ or interest therein, and/ or upon the dividend paid to the shareholders and / or members of a qualifying owner, out of its share in profits made from a relevant qualifying shipping activity, and / or made from the sake of the Ship or share, right or interest therein; or
- iii) upon the **dividend** paid to the shareholder or member of any other corporation recipient of such dividend, and **which originates directly or indirectly** out of profits made by a qualifying owner from the operation of a Ship, or made from the sale of any Ship or share, right and / or interest therein; or
- iv) other than interest on moneys kept for investment, upon any **interest earned on working capital and / or revenue** earned by a qualifying owner from a relevant qualifying shipping activity on bank accounts, if such working capital or revenue is used to pay expenses for the financing and / or operation and / or maintenance of the ship; or
- v) upon any **income, dividend and / or profit made by a qualifying owner from the sale of any Ship**, and / or any share, right and / or interest therein, and / or made from the **sale of any shares in a qualifying owner** entity that is the owner of a Ship.

II) TAXATION OF CHARTERERS

1. Qualifying Charterers

The following charterers (bareboat, time or voyage) are deemed to be qualifying charterers of ships who will be subject to tonnage tax, provided that they comply with section 47 of the Law (as described herebelow):

- i) the charterer of a Cyprus ship;
- ii) the charterer of a Community ship who has opted to be taxed under the TTS; and
- iii) the charterer of a fleet comprising of Community and non-Community ships who has opted to be taxed under the TTS.



2. Minimal share of the fleet in ownership, section 47 of the Law

- a) The total net tonnage of ships chartered-in and included in the tonnage tax system may not exceed for more than three consecutive tax periods 75% of the total net tonnage of all ships chartered-in or operated by a qualifying charterer and included in the tonnage tax system.
- b) The total net tonnage of ships chartered-in and included in the tonnage tax system may not exceed for more than three consecutive tax periods 90% of the total net tonnage of all ships chartered-in or operated by a qualifying charterer and included in the tonnage tax system provided that every chartered-in ship is either:
 - i) registered in a maritime register of a Member State, or
 - ii) its crew management and its technical management are carried out from the territory of a Member State.

3. Exemption from income tax

For a qualifying charterer operating a qualifying ship in a qualifying shipping activity (the “Chartered Ship”) no tax is charged, levied or collected on the following:

- i) upon the income derived from the Chartered Ship; or

- ii) upon the **dividend** paid to the shareholders or the members of a qualifying charterer, out of profits made from a relevant qualifying activity, and / or upon dividend paid to the shareholders and / or members of a qualifying charterer, out of its share in profits made from a relevant qualifying shipping activity; or
- iii) upon the **dividend** paid to the shareholder or member of any other corporation recipient of such dividend, and which originates directly or indirectly out of profits made by a qualifying charterer from the operation of the Chartered Ship; or
- iv) other than interest on moneys kept for investment, upon any **interest earned on working capital and / or revenue earned** by a qualifying charterer from a relevant qualifying shipping activity on bank accounts, if such working capital and / or revenue is used to pay expenses arising out of the charter-party.



III) TAXATION OF SHIPMANAGERS

1. Qualifying shipmanagers subject to tonnage tax

A shipmanager who provides crew and / or technical shipmanagement have the right to opt to be taxed under the TTS. A shipmanager who provides commercial management services is not considered as a qualifying shipmanager for such services together with a shipmanager who do not meet the criteria set out by the new Law will be liable to pay income tax pursuant to the Income Tax Laws of 2002 to (No.4) of 2009.

If all the conditions herebelow mentioned are satisfied, a shipmanager will be charged an annual Tonnage Tax calculated on the net tonnage of the ships it manages:

- a) the shipmanager has opted to be taxed under the tonnage tax system, provided that the said shipmanager is a tax resident providing shipmanagement services to a qualifying ship or ships of any nationality (flag); and
- b) the shipmanager satisfies the general requirements pursuant to sections 32, 33, 34, 35 of the Law (defined herebelow); and
- c) according to the shipmanagement services offered, the shipmanager satisfies the special requirements as set by sections 36, 37 and 39.

Section 32:

every qualifying shipmanager must have a fully fledged office in the Republic of Cyprus and employ a sufficient in number and qualifications personnel; at least 51% of the total number of persons employed by the shipmanager ashore must be citizens of a Member State.

Section 33: economic link between the managed ships and the Community

Section 34: compliance with international and Community standards

Section 35: flag share requirement of managed vessels

Section 36

Crew management in accordance with the Maritime Labour Convention 2006 requirements):
A qualifying crew manager must ensure that on all ships under its crew management the provisions of the Maritime Labour Convention 2006 are fully implemented.

Section 37: compliance mechanism with Maritime Labour Convention 2006

Section 39: additional special conditions for shipmanagers performing technical management only

2. Exemption from income tax

- i) upon the **income** derived from the shipmanagement services; or
- ii) upon the **dividend** paid to the shareholders or the members of the qualifying shipmanager, out of profits made from the shipmanagement services, or upon the dividend paid to the shareholders and / or members of a qualifying shipmanager, out of its share in profits made from the relevant shipmanagement services; or
- iii) upon the **dividend** paid to the shareholder or member of any other corporation recipient of such dividend, and which originates directly or indirectly out of profits made by a qualifying shipmanager from the shipmanagement services; or
- iv) other than interest on moneys kept for investment, upon any interest earned on working capital and / or revenue earned by a qualifying shipmanager from the provision of crew management services and / or technical management services to any qualifying ship on bank accounts, if such working capital or revenue is used to pay expenses relevant to the management of those ships for the financing and / or operation and / or maintenance of the ship.

A) Tonnage tax rates for qualifying shipowners and charterers of Cyprus and foreign ships

On each qualifying ship of qualifying shipowners and charterers there will be charged, levied and collected an annual tax calculated on the ship's net tonnage as follows:

- a) from 0 to 1,000 units of net tonnage- for every 100 units of net tonnage there will be a tonnage tax of EUR 36,50;
- b) from 1,001 to 10,000 units of net tonnage- for every additional 100 units of net tonnage there will be a tonnage tax of EUR 31,03;
- c) from 10,001 to 25,000 units of net tonnage- for every additional 100 units of net tonnage there will be a tonnage tax of EUR 20,08;
- d) from 25,001 to 40,000 units of net tonnage- for every additional 100 units of net tonnage there will be a tonnage tax of EUR 12,78;
- e) in excess of 40,000 units of net tonnage tax- for every additional 100 units of net tonnage tax of EUR 7,30.



Sample calculation of the annual tonnage tax for a 19,538 net tonnage vessel:

Net tonnage of each vessel is broken down into 100 units of net tonnage increments and specific annual rates are applied to each increment:

1,000 NT: $1000/100 = 10 \times \text{EUR } 36,50 = \text{EUR } 365,00$
9,000 NT: $9000/100 = 90 \times \text{EUR } 31,03 = \text{EUR } 2792,70$
9,500 NT: $9500/100 = 95 \times \text{EUR } 20,08 = \text{EUR } 1907,60$
38 NT: $38/100 = 0.38 \times \text{EUR } 20,08 = \text{EUR } 7,63$
Annual tonnage tax due: EUR 5.072,93

Any residual tonnage of less than 100 units of net tonnage will be charged proportionally.

Additionally, the new Law provides that the registered owner of every Cyprus pays to the Director of the Department of Merchant Shipping an annual fee of EUR 300.00 referred to as Cyprus Registry Maintenance Fee.



B) Tonnage tax rates for qualifying shipmanagers of Cyprus and foreign ships

On each qualifying ship of qualifying shipmanager there will be charged, levied and collected an annual tax calculated on the ship's net tonnage as follows:

- f) from 0 to 1,000 units of net tonnage- for every 400 units of net tonnage there will be a tonnage tax of EUR 36,50;
- g) from 1,001 to 10,000 units of net tonnage- for every additional 400 units of net tonnage there will be a tonnage tax of EUR 31,03;
- h) from 10,001 to 25,000 units of net tonnage- for every additional 400 units of net tonnage there will be a tonnage tax of EUR 20,08;
- i) from 25,001 to 40,000 units of net tonnage- for every additional 400 units of net tonnage there will be a tonnage tax of EUR 12,78;
- J) in excess of 40,000 units of net tonnage tax- for every additional 400 units of net tonnage tax of EUR 7,30.

Sample calculation of the annual tonnage tax for a 19,538 net tonnage vessel:

Net tonnage of each vessel is broken down into 400 units of net tonnage increments and specific annual rates are applied to each increment:

1,000 NT: $1000/400 = 2,5 \times \text{EUR } 36,50 = \text{EUR } 91,25$
9,000 NT: $9000/400 = 22,5 \times \text{EUR } 31,03 = \text{EUR } 698,17$
9,500 NT: $9500/400 = 95 \times \text{EUR } 20,08 = \text{EUR } 476,90$
38 NT: $38/400 = 0.095 \times \text{EUR } 20,08 = \text{EUR } 1,90$

Annual tonnage tax due: EUR 1.268,22





Thank you for your time!

Any Questions?