

Cyprus Business Headlines

SUMMER 2010

VOLUME 5 ISSUE 2

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AMENDMENTS TO THE COMPANIES LAW

Cyprus has recently made a number of amendments to the Companies Law, directed at modernising its provisions and improving Cyprus's competitiveness as a centre for international business. The main changes are summarised below.

Financial assistance for acquisition of own shares

The rigid prohibition which previously existed against companies providing financial assistance for the acquisition of their own shares has been partially eliminated by the introduction of a "whitewash" mechanism. A private company may now provide direct or indirect financial assistance for the acquisition of its own shares or shares of its holding company as long as it is not a subsidiary of any public company, and the arrangement is approved by a resolution passed at a general meeting at which the holders of 90% of all the issued shares of the company vote in favour. Public companies continue to be prohibited from providing financial assistance for the acquisition of their own shares.

Registration of charges

Pledges over shares in Cyprus companies created by Cyprus companies need no longer be registered with the Registrar of Companies, subject to compliance with all other requirements to perfect a pledge over shares in a Cyprus company. In addition, charges which fall within the scope of the Cyprus legislation adopting the EU Financial Collateral Directive need not be registered with the Registrar of Companies. An amendment, assignment

or other change to a charge which has been filed with the Registrar of Companies may now be registered as a modification of the existing charge, rather than as a new charge, which was previously the case.

Affixing the common seal

The requirement to affix the company's common seal on documents which would require the common seal to be affixed under English law has been abolished. If the company does choose to affix its common seal on any document, it should do so in accordance with the procedure set out in its articles of association.

Prospectuses

In the case of offerings of shares or debentures to which the Public Offer and Prospectus Law of 2005 or the Open-Ended Undertakings for Collective Investment in Transferable Securities and Related Issues Law of 2004 Law apply, there is no longer an obligation to file a copy of the prospectus with the Registrar of Companies.

If a public company does need to file a prospectus with the Registrar of Companies (for example if it is offering shares or other securities in a market abroad) the Registrar of Companies will now accept the prospectus and accompanying documents in any widely used language.

Redeemable preference shares

Redeemable preference shares may now be issued on terms that allow their redemption at the option of the company or of the holder of the shares.

Conversion of shareholder rights

A company's articles of association may now provide for the automatic conversion of the rights attached to shares on the happening of a specific event without the company needing to take any action or pass any resolutions.



Registration of members

Provisions regarding the registration of transfers have been amended to reflect the fact that electronic records have largely replaced paper records. For example, transfers of shares or other securities may be registered without an instrument of transfer provided that the transfer took place in accordance with the rules regulating the relevant market. Companies which carry on business outside Cyprus, whose shares are listed on a market outside Cyprus or which have shareholders residing outside Cyprus may keep their register of members in their main place of business or in the location where their shares are listed or their members reside, as long as copies of all entries made in it are sent to the registered office of the company.

Companies whose shares are listed on an overseas market may maintain their register of members in accordance with the rules regulating the market in question, in effect allowing for electronic registers and dematerialized shares. The applicable procedures for perfection of pledges over shares will be those laid down by the rules of the market on which they are traded.

Further information: [Elias Neocleous](#)

WIDER ACCESS TO THE CENTRAL INFORMATION REGISTER FOR ISSUERS OF DISHONOURED CHEQUES

The Central Information Register for the Issuers of Dishonoured Cheques (CIR) was established in 2003 under the auspices of the Central Bank of Cyprus, in order to address the issue of dishonoured cheques and increase confidence in the use of cheques as a safe means of payment.

Banks are required to report dishonoured cheques to the Central Bank of Cyprus and individuals or companies who have issued dishonoured cheques above a certain aggregate value or on more than a specified number of occasions in a 12 month period are entered on the register.

Inclusion on the register means that the individual or company cannot operate a bank account in Cyprus. All existing accounts in the name of the individual or company are frozen and no new accounts may be opened. Removal from the register requires the settlement of all outstanding cheques and a "clean" period of at least 12 months.

In order to improve the deterrent effect of the CIR, access to its basic information has now been extended to all interested parties, such as potential providers of goods and services on credit, via a service provider.

At the same time the directive governing the operation of the CIR was amended to take greater account of the

period within which dishonoured cheques are settled when assessing whether a listed person is to be delisted or not, particularly when it can be proved that cheques have been settled within one month of listing.

Further information: [Maria Kyriacou](#)

REMOVAL OF CYPRUS FROM RUSSIAN CENTRAL BANK LIST OF OFFSHORE TAX CENTRES

The Central Bank of Cyprus has announced that the Central Bank of the Russian Federation has removed Cyprus from the list of countries it regards as offshore centres with preferential tax regimes. Under a regulation introduced by the Central Bank of the Russian Federation in 2003, transactions with such jurisdictions by Russian banks are subject to a number of restrictions.

According to the Central Bank of Cyprus, removal from the list is a positive development which enhances Cyprus's reputation as an international financing centre, and reflects the close cooperation between the two Central Banks over the past few years in the area of banking supervision.

Further information: [Maria Kyriacou](#)

REGULATION OF ONLINE BETTING

Cyprus has recently concluded a review of its gambling laws and the Cyprus Ministry of Finance has submitted a draft bill to the European Commission for clearance, regulating all forms of online betting and gambling other than horse racing, for which a separate bill is to be prepared.

The bill creates a National Betting Authority to oversee the gambling industry, which will be responsible for reviewing all applications, issuing licences and building permits and cooperating with international organisations in the industry.

The key provisions regarding online betting are as follows:

- ≡ Providers of gambling services must be registered with the National Betting Authority. Applicants must be a company limited by shares incorporated in Cyprus or abroad with the sole object of conducting collective gambling and with an issued and paid-up capital of at least €500,000.
- ≡ Players must be over 18 years old. They must complete an application for registration and hold an account with a licensed provider.
- ≡ Bets may be placed only via credit cards, debit cards, electronic transfers, cheques and other means approved by the National Betting Authority, with strict limits on transaction charges.
- ≡ The provider is obliged to maintain players' accounts



and to credit all amounts due to the registered player.

- ≡ Providers will be liable to betting tax at the rate of 10% of amounts staked.
- ≡ Providers must maintain a web page showing their company's name, address and licence details, together with links to web pages of organisations providing help against gambling addiction.

Further information: [Nicholas Ktenas](#)

SHIPPING TAX REFORM - THE NEW TONNAGE TAX REGIME

The Cyprus registered fleet is among the largest in the EU and the tenth largest worldwide, and Cyprus has developed into the largest third party ship management centre in the EU.

The Merchant Shipping (Fees and Taxing Provisions) Law of 2010 ("the Tonnage Tax Law") was enacted on 29 April 2010 and has retroactive effect from 1 January 2010. The new law has been approved by the European Commission as complying with EU guidelines on state aid.

It significantly extends the application of tonnage tax for Cyprus resident shipping companies, simplifying and reducing the tax burden, and makes the benefits of the tonnage tax regime and exemptions from income tax currently enjoyed by owners, operators and managers of Cyprus-flag ships available to owners and charterers of non-Cyprus flag vessels. Furthermore, it widens the range of exempt gains to include profits on the disposal of vessels, interest earned on funds and dividends paid directly or indirectly from shipping-related profits, in addition to profits from shipping operations.

Qualifying persons, activities and vessels

In order to be eligible for the tonnage tax regime, a "qualifying person" must be carrying out "qualifying activities" in relation to "qualifying vessels".

Qualifying persons are tax-resident owners or charterers (bareboat, demise, time and voyage) of Cyprus ships, of Community ships or of fleets of ships comprising Community and non-Community ships, and shipmanagers providing technical or crewing services or both. Shipmanagers are required to maintain a functioning office in Cyprus staffed by a sufficient number of appropriately qualified personnel. At least 51% of onshore personnel must be citizens of the European Economic Area ("EEA") (comprising the EU together with Iceland, Liechtenstein and Norway) and at least two-thirds of the total tonnage under management must be managed within the EEA.

For owners or charterers of Cyprus ships the tonnage tax scheme is mandatory. Other owners or charterers

and shipmanagers may opt for taxation based on profits or tonnage tax, but, having opted for the tonnage tax scheme, they must remain within it for ten years unless the vessel is sold, or a charter or management agreement is terminated. For a fleet to qualify for the scheme, at least 60% of its tonnage should comprise Community ships. If this requirement is not met, the non-Community vessels may still qualify if certain criteria are met, but surcharges may be payable.

For owners and charterers, qualifying activities are maritime transport of goods or people between Cyprus ports and foreign ports or offshore installations, or between foreign ports or offshore installations, including towage, dredging and cable laying. For shipmanagers, qualifying activities are the provision of services under a written agreement to a ship owner or bareboat charterer in relation to crew management, technical management or both. A qualifying vessel is a sea-going vessel that has been certified in accordance with international principles and legislation of the flag country and is registered in the register of a member country of the International Maritime Organisation and International Labour Organisation. Vessels which transport humanitarian aid are included in the definition, but the following are excluded:

- ≡ fishing and fish factory vessels;
- ≡ vessels used primarily for sport or recreation;
- ≡ vessels constructed exclusively for inland waterway navigation;
- ≡ harbour, estuary and river ferries and tug boats;
- ≡ fixed offshore installations which are not used for maritime transport;
- ≡ non self-propelled floating cranes;
- ≡ non-ocean going tug boats;
- ≡ stationary vessels employed for hotel or catering operations (floating hotels or restaurants);
- ≡ vessels employed mainly as casinos or gambling facilities.

Basis of taxation

The Tonnage Tax Law replaces taxes based on profits with a tax calculated on the net tonnage of the vessels concerned.

For owners and charterers the tax exemption covers profits from the use of a qualifying vessel, dividends paid out of those profits at all levels of distribution and interest income relating to the financing, maintenance or use of a qualifying vessel and the related working capital, excluding interest on capital used for investments. Profits from the disposal of a qualifying vessel or any share or interest in it and profits from the disposal of shares in a shipowning company are also exempt from tax. In order to qualify for the exemption at least 25% of the net tonnage of vessels subject to tonnage tax must be owned or bareboat chartered. The percentage can be reduced but not for more than three



consecutive years. The qualifying percentage is reduced to 10% if all the vessels of the charterer are registered or managed in the EEA.

Shipmanagers may elect to pay tonnage tax at one-quarter of the rates applicable to shipowners and charterers, in which case profits earned from the provision of technical and crewing services are exempt from tax in respect of qualifying vessels, together with dividends paid out of those profits at all levels of distribution.

Profits from commercial management are not covered by the tonnage tax scheme and remain taxable under corporation tax.

Section 46 of the Tonnage Tax law contains an "all or nothing" provision. Qualifying owners, charterers and shipmanagers opting to enter the tonnage tax system must include all qualifying ships. If a company which is part of a Cyprus tax resident group of companies enters the tonnage tax scheme, then all other qualifying members of the group must simultaneously enter the scheme.

Tonnage tax rates

Tonnage tax is charged on a sliding scale on net tonnage. The initial rates charged to owners and charterers are as follows:

Tonnage	Rate per tonne
First 1,000 tonnes	€0.3650
Next 9,000 tonnes	€0.3103
Next 15,000 tonnes	€0.2008
Next 15,000 tonnes	€0.1278
Each tonne above 40,000	€0.0730

By way of example, the annual tonnage tax on a ship of 50,000 tonnes would be €8,816.70.

Cyprus-flag ships are also subject to an annual registry maintenance fee of €300.

For shipmanagers the rates are one-quarter of those set out in the table above.

Other provisions

The Tonnage Tax law contains "ring-fencing" provisions to prevent exemption being gained in respect of ineligible activities. Separate accounts must be maintained in respect of qualifying and non-qualifying activities, and transactions with related parties who are not in the tonnage tax system must be made at arm's length.

The tonnage tax system is administered by the Department of Merchant Shipping and taxpayers within its scope will receive an annual certificate, a

copy of which will be sent to the income tax authorities.

The Department of Merchant Shipping will maintain records of all Cyprus flag vessels and their owners which are not deemed to carry out a qualifying activity, and of all shipmanagers, shipowners or charterers of foreign flag vessels who do not carry out a qualifying activity or have not opted for the tonnage tax system.

Following enactment of the Tonnage Tax law, section 19 of the Income Tax Laws of 2002 – 2010 (Law 118(I) of 2002 as amended), which gave shipmanagers the option on a year by year basis of paying corporate income tax at a reduced rate of 4.25% on net earnings instead of tonnage tax, has been repealed by the Income Tax (Amendment) Law of 2010 (Law 41 (I) of 2010).

Conclusion

Enactment of the Tonnage Tax law gives Cyprus the unique advantage of being the only country with an EU-approved tonnage tax regime for shipping activities which confers total exemption from income tax and tax on distributions at all levels and allows for both qualifying and non-qualifying activities. The new tonnage tax regime will further increase Cyprus's attractiveness as a maritime centre, providing incentives for the employment of EU seamen and registration of vessels in Cyprus and enhancing the competitiveness of shipowners, charterers and shipmanagers.

Further information: [Elias Neocleous](#) or [Costas Stamatiou](#)

NEWS ABOUT OUR FIRM

Continued ratings success for Andreas Neocleous & Co LLC

Two recently published updates to law firm rankings in Cyprus have confirmed the clear leadership position of Andreas Neocleous & Co LLC among Cyprus law firms.

Over more than 20 years Legal 500 has built a reputation as one of the world's leading independent reviews of legal service providers in more than 100 countries, ranking firms in tiers by practice area based on in-depth research and feedback from clients and peers. For a third successive year our firm is rated in the top tier in every category of work, a distinction achieved by only a handful of firms worldwide.

Legal 500 praised our firm for "the highest level of professionalism and corporate ethics" and for "providing clear and professional responses in a timely manner".

PLC Which Lawyer? provides constantly-updated independently researched market intelligence on lawyers active in core commercial practice areas, again based on feedback from clients and peers. Its

recommendations are updated continuously online to reflect the latest developments. In the latest update to the Cyprus ratings we extended our lead over other firms and consolidated our clear market leadership.

International Tax Review Cyprus Tax Firm of the Year

We confirmed our reputation as the premier tax firm in Cyprus by winning the Cyprus Tax Firm of the Year award for 2010 at the European Tax Awards organised by International Tax Review. First published in 1990, International Tax Review has established itself as the world's most authoritative magazine dedicated to international tax strategy. Its annual European Tax Awards are judged on the basis of innovation, technical expertise and market position in the field of cross-border taxation, based on detailed research which includes interviews with leading tax practitioners, private-practice lawyers, and in-house counsel.

The other shortlisted firms for Cyprus were Deloitte, PricewaterhouseCoopers, Eurofast Taxand and Ernst & Young. Other country award winners included Loyens & Loeff, Lenz & Staehelin and Allen & Overy.

Receiving the award on the firm's behalf at the awards ceremony in London, chairman Andreas Neocleous said, "We are proud to be recognised by our clients and our peers as the leading tax firm in Cyprus. I should like to thank all my colleagues for their efforts and all our clients, who are the focus of everything we do, for their support and confidence."

We are gratified that independent surveys such as these, based on client feedback, confirm the benefits of our strategy of specialisation and quality. We should like to thank our clients for their continued confidence in us and assure them that we will not rest on our laurels, but continue to strive for further improvements in our service to them.

Jose Carreras in Limassol

We were delighted to support the Limassol Chamber of



Commerce by being one of the main sponsors of a gala concert by the world famous tenor José Carreras at the Municipal Gardens Theatre in Limassol.

A capacity audience was thrilled and enchanted by a memorable performance and after the concert our guests and we had the additional pleasure of meeting Mr Carreras and his fellow performers.

The concert is the cultural highlight of this summer in Cyprus and we are proud to have played our part in bringing it about.

RECENT PUBLICATIONS

The following are a selection of our publications since the previous edition of this newsletter. They may be viewed by following the links below or by visiting the publications section of our website.

- ≡ ["Cyprus" in "Trusts & Trustees", April 2010](#)
- ≡ [Cyprus chapter of "The World Trust Survey" published by Oxford University Press](#)
- ≡ [Cyprus section of "European Holding Regimes 2010" published by Loyens & Loeff](#)
- ≡ [Cyprus chapter of "International Comparative Legal Guide to Mergers & Acquisitions 2010" by Elias Neocleous and Marinella Kilikitas published by Global Legal Group Limited](#)
- ≡ [Cyprus chapter of "Getting the Deal Through – Public Procurement 2010" by Chrysanthos Christoforou published by Law Business Research Limited](#)
- ≡ [Cyprus chapter of "Cross-border Restructuring and Insolvency 2010" by Elias Neocleous and Maria Kyriacou published by Practical Law Company Limited](#)
- ≡ [Cyprus chapter of "National Registration for Producers of Electronic Waste" by Nicholas Ktenas and Achilleas Malliotis published by Springer Science+Business Media](#)
- ≡ [Cyprus chapter of "Global Mobility Handbook 2010" by Nicholas Ktenas published by Saraiva \(Brazil\) on behalf of the Brazilian Labour Ministry \(in Portuguese\)](#)

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