

Shipping & Transport - Cyprus

The Cyprus Tonnage Tax Law - guidance on definition of 'Community ships'

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The Cyprus Department of Merchant Shipping has issued further guidance on its interpretation of the term 'Community ship' for the purposes of the Merchant Shipping (Fees and Taxing Provisions) Law 2010 (Tonnage Tax Law).

The definition of the term 'Community ship' is contained in Section 2 of the Tonnage Tax Law and is further explained in the Tonnage Tax (Definition of Community Ships) Notification 2010 issued by the Department of Merchant Shipping in July 2010.

According to Section 2 of the Tonnage Tax Law, a 'Community ship' is a ship registered in a member state which flies the flag of a member state in accordance with its legislation, and which is determined by notification, in compliance with the applicable guidelines on state aid to maritime transport adopted from by the European Commission.

In light of this, the Department of Merchant Shipping considers there to be two concurrent prerequisites for a ship to qualify as a Community ship:

- It must be registered in a member state; and
- It must fly the flag of a member state in accordance with its legislation.

The July 2010 notification contains a list of qualifying registries. It excludes the registries of overseas territories of member states, such as the Dutch Antilles Registry and the Cayman Islands Registry.

However, 'Community ship' must be interpreted to include the term 'Cyprus ship' which, according to Section 2 of the Tonnage Tax Law, includes foreign registered ships registered in the Special Book of Parallel Registration, under Part VA of the Tonnage Tax Law. Accordingly, a ship registered parallel-in under the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963 to 2005 (Law 45/1963 as amended) is considered by the Department of Merchant Shipping to be registered in Cyprus and flying the Cyprus flag, and so constitutes a Cyprus ship and a Community ship.

Furthermore, the Department of Merchant Shipping regards a ship registered parallel-out under Law 45/1963, as amended, as a Cyprus ship (and, by analogy, a Community ship), even though it may temporarily be flying a foreign flag. However, a ship which has no registry connection with Cyprus (as either the underlying registry or the flag registry) is deemed by the Department of Merchant Shipping not to be a Cyprus ship or a Community ship because its bareboat charter registration is not effected according to Cyprus law.

In order to avoid any eventual discrimination as a result of the specific treatment of the status of Cyprus ships, the Department of Merchant Shipping may also interpret the term 'Community ship' to include cases where the underlying registry is a Community ship registry other than the Cyprus registry and the vessel is temporarily flying a non-Community flag, if 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) to be a ship of the member state concerned.

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