

Cyprus Tonnage Tax System
Questions & Answers



Contents

Q1: What is a "Qualifying Ship"?	1
Q2: What is a "Qualifying Shipping Activity"?	2
Q3: What are the eligibility requirements for owners of Cyprus and foreign ships?	4
Q4: What are the eligibility requirements for charterers?	6
Q5: What are the eligibility requirements for ship managers?	11
Q6: What is the "Community-Flagged Share" requirement and how is it met?	13
Q7: What is the "2/3 rule"?	20
Q8: What are the requirements regarding "sufficient in number and qualifications personnel"?	25
Q9: What is the procedure for admission to the TTS?	26
Q10: What are the consequences when the "10-year rule" is not met?	29
Q11: How can a foreign company be taxed under the TTS?	30
Q12: What are the exemptions from Income Tax?	31
Q13: What is the "All or Nothing" option?	32
Q14: How is the Electronic Tonnage Tax System (e-TTS) used?	33
Q15: When is the tonnage tax payable?	34
Q16: What are the filing requirements?	36
Q17: What are the bookkeeping requirements for an owner/charterer/manager who has both qualifying and non-qualifying income?	39
Q18: What is the tonnage tax premium on non-Community ships listed by the Paris MOU on Port State Control?	40
Q19: Is there a reduction of tonnage tax for laid-up or inoperative vessels?	41
Q20: How are the Arm's Length Principles applied in TTS?	42
Q21: How is the tonnage tax calculated for an owner/charterer?	43
Q22: How is the tonnage tax calculated for a ship manager?	44
Q23: Can shipping groups be imposed to multiple tonnage tax payments?	45
Q24: Are crew members of Cyprus ships exempted from Income Tax?	46
Q25: How are the eligibility criteria examined if the owner/charterer/ship manager is part of a group of companies?	47
Contacts	48

The TTS is available to any owner, charterer or ship manager who owns, charters or manages a qualifying ship in a qualifying shipping activity

Q1: What is a “Qualifying Ship”?

Answer Q1

Qualifying ship is any seagoing vessel certificated under the 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 is recognized by the Republic of Cyprus.

The TTS specifically **excludes** certain types of ships such as:

- Fishing and fish factory vessels;
- Vessels used primarily for sport or recreation;
- Inland waterway navigation vessels;
- Harbour, estuary and river ferries and tug boats;
- Fixed offshore installations (not used for maritime transport);
- Non self-propelled floating cranes;
- Non-ocean going tug boats;
- Floating hotels, restaurants, casinos.

Qualifying Community ship is a qualifying ship which is registered and flying an EU or EEA flag (see list of the Community Registers in Question 6).

Qualifying non-Community ships are eligible for the TTS if they are qualifying and comply with the following requirements:

- a) are classed with a classification society recognised by the EU;
- b) are duly certificated as appropriate in accordance with the international Conventions regulating to maritime safety, security and protection of the environment, and
- c) are manned by seafarers who are duly certificated in accordance with the STCW Convention.

For points (b) and (c) above to be satisfied the flag of the non-Community ship must be recognised by both the IMO and the ILO.

Q2: What is a “Qualifying Shipping Activity”?

Answer Q2

Any commercial activity that constitutes **maritime transport** or **ship management** (crew management and/or technical management) is considered a qualifying shipping activity.

Maritime Transport

The definition of maritime transport, in addition to the traditional carriage of goods and passengers by sea, outside the territorial waters of the Republic of Cyprus, between a Cyprus port and a foreign port or an offshore facility, or between foreign ports, or offshore facilities, includes:

- all hotel, catering, entertainment and retailing activities on board of qualifying vessel;
- loading and unloading of cargo;
- operation of ticketing facilities and passenger terminals;
- cable-laying activities;
- towage activities, provided that the ocean going tug is a Community ship and spends at least 50% of its time in towage or salvage activity at sea (Form MS TT 3);
- dredging activities, provided that the dredger is self-propelled, has carrying capacity for dredged material, is a Community ship and spends at least 50% of its time in the carriage of dredged goods (Form MS TT 4). (For more information on Towage and Dredging Activities see Notification P.I. 353/2010).

Ship management

The provision of crew and/or technical management services to a qualifying ship.

Crew management services means:

- (a) Selecting and engaging the vessel’s crew, including payroll arrangements, and insurances for the crew;
- (b) ensuring compliance with the requirements of the law of the flag of the vessel in respect of manning levels, rank, qualification and certification of the crew;
- (c) ensuring that the crew has undergone a medical examination and possesses a valid medical certificate issued in accordance with the appropriate flag State requirements;

- (d) arranging transportation of the crew, including repatriation;
- (e) training of the crew and supervising their efficiency;
- (f) other relevant functions usually performed by ship managers under the BIMCO standard shipmanagement agreement.

Technical management services means:

- (a) The provision of competent personnel to supervise the maintenance and general efficiency of the vessel;
- (b) the arrangement and supervision of dry dockings, repairs, alterations and the upkeep of the vessel to the standards required by the law of the flag of the vessel and of the places where she trades, and all requirements and recommendations of its classification society;
- (c) the arrangement of the supply of necessary stores, spares and lubricating oil;
- (d) other relevant functions usually performed by shipmanagers under the BIMCO standard shipmanagement agreement.

The qualifying ships under management do not necessarily have to be engaged in maritime transport.

Commercial management does not fall within the scope of the TTS. "Commercial management services" means:

- (a) The provision of chartering services in accordance with the instructions of the owner, which includes seeking and negotiating employment of the ship and the conclusion of charter parties or other contracts relating to the employment of the ship;
- (b) the payment to owners of all hire and freight revenues and any other moneys, to which the owners are entitled and arise out of the employment of the ship;
- (c) the provision of voyage estimates, accounts, the calculation of hire, freights and demurrage, and/ or dispatch moneys due from or due to the charterers of the ship;
- (d) other relevant functions usually performed by ship managers under the BIMCO standard shipmanagement agreement.

Q3: What are the eligibility requirements for owners of Cyprus and foreign ships?

Answer Q3

Owners of Cyprus-flagged ships

Eligible for the TTS is an Owner of a Cyprus ship

- that is qualifying, and
- is engaged in a qualifying shipping activity.

Qualifying Owners of Cyprus ships do not need to exercise an option to be taxed under the TTS; they are automatically subject to tonnage tax due to their registration under the Cyprus flag.

Owners of Community-flagged ships

Eligible for the TTS is an Owner of a ship registered in an EU/EAA state (see definition of Community ship in Question 6), who

- is a tax resident of the Republic of Cyprus,
- owns a qualifying ship, which is engaged in a qualifying shipping activity, and
- has opted to be taxed under the TTS.

Owners of non-Community ships

Eligible for the TTS is an Owner of a non-Community ship, who

- is a tax resident of the Republic of Cyprus,
- owns a ship that is a qualifying non-Community ship, which is engaged in a qualifying shipping activity,
- complies with the "Community - flagged share" requirement (explained below), and
- has opted to be taxed under the TTS.

Owners of re-flagged ships

In case of re-flagging of a Cyprus qualifying ship to a foreign flag while the Owner is still a tax resident of Cyprus, then this Owner continues to remain in the TTS as an Owner of a foreign ship until the expiration of the 10 years period (no corporate tax option).

In case of re-flagging of a qualifying foreign ship to Cyprus flag, the Owner is automatically subject to tonnage tax.

The owner of foreign ships must comply with the “Community-flagged share” requirement (see details in Question 6), which entails that at the time of opting to be taxed under the TTS, at least 60% of the fleet in terms of tonnage should be Community ships. If Community ships are less than 60% of the total fleet, then:

- A share of the fleet should comprise of Community ships;
- The Community share should remain unchanged or increase within a period of 3 years from the election date.
If Community share has decreased, the ship-owner may remain in the system but can only add additional non-Community flag vessels if Cyprus’ Community flag share (i.e. the “Global share”) has not decreased. In such a case though, the tonnage tax for all non-Community flag vessels will increase by 10%;
- The **commercial** and **strategic** management of the fleet must be carried out from the EU/EEA. The terms are not defined in the Law but the DMS has taken the position that:
 - **Commercial management** (in the above context) means the route planning, taking of bookings for passengers or cargo, provisioning and catering ships, personnel management and training, technical management of ships, including the taking of decisions on the repair and maintenance of vessels. Also relevant is the maintenance of support facilities such as training centres, terminals, etc and the extent to which foreign offices or branches work under the direction of personnel based in the territory of the EU/EEA.
 - **Strategic management** means the decisions on significant capital expenditure and disposals. Important in assessing where the strategic function is carried out, will be the location of headquarters, including senior managers and the location of decision making of both directors’ board and operational board.

Q4: What are the eligibility requirements for charterers?

Answer Q4

Any legal person who charters a qualifying ship engaged in a qualifying shipping activity can opt to be taxed under the TTS.

In order to be able to opt for TTS and remain in TTS, the charterer needs to fulfill the “Minimal Share of Fleet in Ownership” requirement.

The Minimal Share of the Fleet in Ownership

A charterer is eligible to enter the TTS only when at the time of opting, the total net tonnage of the ships chartered-in and included in the TTS does not exceed 75% of the total net tonnage of all ships chartered-in or operated by the qualifying charterer and are included in the TTS.

Chartered-in ship is a ship taken on a time charter, or on a voyage charter, or on a contract of affreightment basis.

Operated ships means ships owned or bareboat chartered.

The percentage (%) of chartered-in ships is calculated automatically by the e-TTS.

This percentage can reach 90% provided that every chartered-in ship flies an EU/EEA flag or is entirely managed (crewing and technical) from the territory of the EU/EEA.

Following the entry into the system, the charterer may increase the percentage of net tonnage chartered-in from the absolute maximum, 75% or 90% (as the case maybe), provided that this “excess” **does not occur for more than three consecutive tax periods.**

In case the percentage of net tonnage chartered-in exceeds the 75% or 90% threshold (as the case maybe) for more than three consecutive tax periods, then the relevant ships representing the tonnage in excess, cease to be qualifying ships and the charterer's income from those ships is no longer eligible to be included in the TTS and thus will be taxed in accordance with the provisions of the Income Tax Laws in force. For such purpose separate accounts must be kept for qualifying and non-qualifying ships.

In case the percentage of net tonnage chartered-in is 100% (i.e. no vessels owned or bareboat chartered) the charterer is deemed to be a non-qualifying charterer and will be taxed in accordance with the provisions of the Income Tax Laws in force.

Practical example as extracted from DMS Circular 13/2011:

Case A	1st Fiscal Year	2nd Fiscal Year	3rd Fiscal Year	4th Fiscal Year	5th Fiscal Year
Percentage of ships chartered - in and included in TTS	Entry precondition 75% or 90% as the case maybe	Exceeds 75% or 90%	Exceeds 75% or 90%	Exceeds 75% or 90%	As from 1st January % is ≤ 75 or ≤ 90 ► compliance with section 47 of Law
Case A	1st Fiscal Year	2nd Fiscal Year	3rd Fiscal Year	4th Fiscal Year	5th Fiscal Year
Percentage of ships chartered - in and included in TTS	Entry precondition 75% or 90% as the case maybe	Exceeds 75% or 90%	Exceeds 75% or 90%	Exceeds 75% or 90%	As from 1st January % exceeds 75 or 90 ► excess tonnage not eligible for TTS

The share of the fleet in ownership in a given fiscal year (as at 31st December) is calculated on the basis of the net tonnage of each ship chartered-in or operated which is included in the TTS, on a pro rata basis based on days chartered-in or operated (i.e. NT of a vessel) X (number of days chartered-in or operated).

Practical example:

Qualifying Ship	Type of operation	No. of days	Net tonnage	Ton - Days (NT X No. of days)	Ton - Days Owned	Ton - Days Chartered-in
Container I	Owned	365	12,000	4,380,000	4,380,000	
Bulk I	Bareboat chartered in	365	11,000	4,015,000	4,015,000	
Container II	Time charter	365	18,000	6,570,000		6,570,000
Bulk II	Voyage charter	40	17,500	700,000		700,000
Bulk III	Voyage charter	120	13,000	1,560,000		1,560,000
Bulk IV	Voyage charter	35	10,200	357,000		357,000
Total			81,700	17,582,000	8,395,000	9,187,000

The percentage of ships chartered-in is $9,187,000/17,582,000 \times 100 = 52.25\%$ (<75%).

It should be noted that Cyprus and foreign ships which are included in the tonnage tax system and are owned by different member(s) of the group, will be taken into account when calculating the share of the fleet in the ownership of the qualifying charterer which is a member of the group. However in such cases, where the owned ships are bareboat chartered between tonnage tax companies of the same group then each such ship should only be counted once, when applying the minimal share of the fleet in ownership rule of Section 33.

Charterers of mixed fleet (Community and non-Community ships) must also comply with the below requirements:

Non-Community vessels should comply with relevant international standards and Community Law requirements relating to maritime security, safety, training and certification of seafarers, environmental performance and on board working conditions.

Furthermore the charterers of foreign ships must comply with the “Community-flagged share” requirement (see details in Question 6), which requires that at the time of opting to be taxed under the TTS, at least 60% of the fleet in terms of tonnage should be Community ships. If Community ships are less than 60% of the total fleet, then:

- A share of the fleet should comprise of Community ships;
- The Community share should remain unchanged or increase within a period of 3 years from the election date. If Community share has decreased, the charterer may remain in the system but can only charter additional non-Community flag vessels if Cyprus’ Community flag share (i.e. the “Global share”) has not decreased. In such a case though, the tonnage tax for all non-Community flag vessels will increase by 10%.

Q5: What are the eligibility requirements for ship managers?

Answer Q5

In order to be able to opt to be taxed under TTS, the ship manager must comply with the below qualification criteria:

- The ship manager is a legal person tax resident in Cyprus;
- Provides qualifying services, i.e. crewing and/or technical ship-management (see Question 2) to qualifying ship(s) of any flag;
- Maintains a fully-fledged office in Cyprus;
- Employs sufficient in number and qualifications personnel (see Question 8);
- At least 51% of its employees are EU/EEA citizens;
- Complies with the "2/3 Rule", i.e. the requirement for the economic link of managed ships with the Community (see Question 7);
- Complies with the "Community-flagged share" requirement (explained below);
- Has opted to be taxed under the TTS (see Question 9).

Also, providers of crewing services must:

- Ensure implementation of the Maritime Labour Convention concerning seafarers employment agreements, compensation in the case of ships loss or foundering, provision of medical care, shipowner's liability including payment of wages in case of accident or sickness and repatriation for all ships under management;
- In case the owner's liability to cover claims of contractual compensations for death or long term disability of seafarers due to occupational injury, illness or hazard is not secured by the shipowner the manager has to provide it;
- Ensure that the international standards regarding hours of work and hours of rest are fully complied with;
- Conclude appropriate private contractual arrangements with the shipowner and reflect those in the seafarers' employment contracts expressly providing for compliance with the obligation mentioned above;
- Submit at the beginning of each year a written declaration to the Director of the Department of Merchant Shipping confirming that the contractual arrangements as described above have been concluded or will be concluded for all ships under management.

In addition, providers of **technical services** must:

- Be certified under the ISM Code by the competent authority of the flag of the States of the ships under management;
- Be mentioned as the management company on the relevant safety Management Certificates of the ships under management.

The managers of foreign ships must comply with the “Community-flagged share” requirement (see Question 6), which requires that at the time of opting to be taxed under the TTS, at least 60% of the fleet in terms of tonnage should be Community ships. If Community ships are less than 60% of the total fleet, then:

- A share of the fleet should comprise of Community ships;
- The Community share should remain unchanged or increase within a period of 3 years from the election date.

If Community share has decreased, the ship manager may remain in the system but can only manage additional non-Community flag vessels if Cyprus’ Community flag share (i.e. the “Global share”) has not decreased. In such a case though, the tonnage tax for all non-Community flag vessels will increase by 10%.

Q6: What is the “Community-Flagged Share” requirement and how is it met?

Answer Q6

The “Community-flagged Share” requirement applies to owners of foreign ships, charterers and ship managers.

The Community registers:

“Community-flagged” ships are considered all vessels registered in the below registers:

European Union registers: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Rep., Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, UK.

European Economic Area registers: Norway, Iceland, Liechtenstein.

The following registers, located in Member States of the EU/EEA are also considered as “Community”:

- Danish International Register of Shipping;
- German International Shipping Register;
- Italian International Shipping Register;
- Madeira International Ship Register;
- Canary Islands Ship Register;
- French International Ship Register;
- Norwegian International Ship Register;
- Gibraltar Ship Register.

The following registers are NOT considered registers of Community ships:

- Kerguelen Register;
- Dutch Antilles’ Register;
- Isle of Man Register;
- Bermuda Register;
- Cayman Islands Register.

How the “Community-flagged share” is calculated

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.

$$\text{Community-flagged share} = (\text{CFT}/\text{TT}) \times 100\%$$

where:

CFT: Community-flagged net tonnage

TT: total net tonnage of the fleet

In the case of a group of companies:

- 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.

The “Community-flagged share” requirement is calculated automatically by the e-TTS.

The calculation can be done either on the total fleet (qualifying and non-qualifying) or only on the qualifying vessels if elected to do so at the time of opting to be taxed under TTS.

Only the net tonnage of the ships managed as at 31st December of the year are taken into account.

If a ship is parallel registered under a Community and a non-Community flag, it is considered to be a Community vessel in the above calculation.

The Community-flagged share calculated on the date of opting¹ to be taxed under TTS, is referred to as the Reference Share.

¹ The date of opting (or “option date”) 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. 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.

The requirement

At the time of opting to be taxed under the TTS, at least one vessel, i.e. at least a share of the fleet in terms of tonnage, must be Community flagged. This share (the Reference Share) must not be reduced in any three-year period following the exercise of the option.

In case the share of Community ships is more than 60% at the time of opting, then the restriction regarding reduction of the Reference Share does not apply, i.e. the “Community-flagged share” can vary from year to year between 60% to 100% for as long as it does not fall below 60%.

The assessment for compliance with the Community-flagged share

For the purpose of assessment of the “Community-flagged share” of each company or group of companies, the Director of the DMS shall carry out an assessment upon expiry of the third year (on the 31st December) from the date of opting to be taxed under the TTS and every three years thereafter.

If the Community-flagged share as determined by the Director of the DMS is higher than the Reference Share the company or group can continue to add non-Community ships in tonnage tax. If the Community-flagged share as determined by the Director of the DMS is lower than the Reference Share then the company or group cannot add additional non-Community ships in tonnage tax till its Community-flagged share increases at least up to the Reference Share, unless the “Global Share”, i.e. the Community-flagged share of the relevant global tonnage eligible for tonnage tax in the Republic, has remained unchanged or increased. The year’s Global Share can be traced in the relevant circular issue by the DMS every year.

In this case though, the total amount of TT payable on all the non-Community ships in the fleet will increase by 10%.

If the Global Share has decreased, the company/group cannot include additional non-Community ships in the TTS. Any such ships are considered as non-qualifying and will be taxed under the provisions of the Income Tax Laws in force.

The “Community-Flagged Share” – a practical example as extracted from schedule 1 of DMS Notification 536/2010

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:

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

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 Tax Department (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 Tax Department (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: $(85,000/240,000) \times 100 = \mathbf{35.42\%}$

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 Tax Department 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:

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

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

The above changes are summarised in the Table below:

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

Q7: What is the “2/3 rule”?

Answer Q7

The “2/3 Rule”, or “the Economic link of managed ships with the Community” applies to ship managers.

A qualifying ship manager may benefit from the TTS only if at least two thirds (2/3) of the total tonnage of the qualifying ships managed by the manager in a given fiscal year is managed from the territory of any EU Member State.

For the purpose of calculating the share in a given fiscal year, only the net tonnage of the qualifying ships managed as at 31st December of that year will be taken into account.

The 2/3 Rule is calculated automatically by the e-TTS.

The DMS Director shall carry out an assessment for each ship manager every fiscal year. Tonnage in excess of one third of the tonnage which is not entirely managed from the territory of any Member State is not eligible for the TTS; the relevant vessels shall cease to be qualifying ships and shall no longer be eligible to remain in the TTS for the specific fiscal year. The income of the qualifying ship manager derived from the management of those vessels will be taxed in accordance with the provisions of the Income Tax Laws in force. Separate accounts must be kept for such purposes.

The “2/3 Rule” – a practical example

PRACTICAL EXAMPLE ON THE METHOD OF CALCULATION OF THE ECONOMIC LINK WITH THE COMMUNITY OF MANAGED SHIPS (SECTION 33 OF LAW 44(I) /2010) as extracted from appendix II of DMS Circular 6/2011

The requirement under section 33 of the Law is calculated in terms of net tonnage. The following data refer to a ship management company in the TTS for the year 2011.

Ships	Net Tonnage	Country where management takes place & type of management	
		Technical	Crewing
Ship A	100,000	United Kingdom	Cyprus
Ship B	25,000	Bahamas	Cyprus
Ship C	16,345	Germany	Cyprus
Ship D	33,450	Greece	Cyprus
Ship E	45,000	Cyprus	Cyprus
Ship F	89,500	Singapore	Cyprus
Ship G	13,000	Hong Kong	Cyprus
Ship H	85,000	Denmark	Cyprus
Ship I	67,499	Italy	Cyprus
Ship J	41,000	Panama	Cyprus
Total Tonnage	515,794		

The ships which are entirely managed from the EU/EEA territory² are: Ship A, Ship C, Ship D, Ship E, Ship H and Ship I.

The tonnage of the ships which are entirely managed from the EU/EEA territory is: $100,000 + 16,345 + 33,450 + 45,000 + 85,000 + 67,499 = 347,294$.

The percentage of the tonnage of the ships which are entirely managed from the EU/EEA territory to the Total Tonnage under management is: $(347,294 / 515,794) \times 100 = 67.33\%$.

The percentage of tonnage entirely managed from the EU/EEA territory is above the 2/3 of the tonnage of the ships included in the Tonnage Tax System ($67.33 > 66.67\%$). Thus, the company meets the requirement of the Law.

In the year 2012, the technical management of Ship A is effected from Antigua and Barbuda instead of the United Kingdom. The rest of the data remained unchanged.

The ships which are entirely managed from the EU/EEA territory for 2012 are: Ship C, Ship D, Ship E, Ship H and Ship I.

The tonnage of the ships which are entirely managed from the EU/EEA territory is: $16,345 + 33,450 + 45,000 + 85,000 + 67,499 = 247,294$.

The tonnage of the ships which are NOT entirely managed from the EU/EEA territory is: $100,000 + 25,000 + 89,500 + 13,000 + 41,000 = 268,500$.

² As per section 33 of the Law, meaning that their crew management and /or technical management is effected from the EU/EEA territory either on an in-house basis or outsourced to one or more ship managers.

The percentage of the tonnage of the ships which are entirely managed from the EU/EEA territory to the total tonnage is:
 $(247,294 / 515,794) \times 100 = 47.94\%$.

The percentage of tonnage entirely managed from the EU/EEA territory is below the 2/3 of the tonnage of the ships included in the Tonnage Tax System ($47.94 < 66.67\%$). Thus, the company does not meet the requirement of the Law. Tonnage which is not entirely managed from the territory of any EU/EEA Member State and which is in excess of the one third allowed under section 33(2)(a) of the Law is not eligible for the tonnage tax system. The relevant vessels representing the tonnage in excess cease to be qualifying ships and the ship manager's income from those ships is no longer eligible to be included in the tonnage tax system for the specific fiscal year when the excess occurred, and will be taxed in accordance with the provisions of the Income Tax Laws.

Calculation of excess tonnage

$$\sum TEU + \sum TNEU = \sum TTM,$$

Where:

$\sum TEU$ = Net tonnage entirely managed from EU/EEA territory.

$\sum TNEU$ = Net tonnage not entirely managed from EU/EEA territory.

$\sum TTM$ = Total net tonnage under management (included in the TTS).

Requirements of section 33 of the Law:

$$\begin{aligned}\sum \text{TEU} &\geq 2/3 \sum \text{TTM} \\ \sum \text{TNEU} &\leq 1/3 \sum \text{TTM}\end{aligned}$$

From the above relationships we can conclude that the net tonnage NOT entirely managed from EU/EEA territory shall not exceed $\frac{1}{2}$ of the net tonnage entirely managed from EU/EEA territory.

$$\sum \text{TNEU} \leq \frac{1}{2} \sum \text{TEU}$$

Therefore, the excess tonnage may be expressed as:

$$\text{Excess Tonnage} = \sum \text{TNEU} - \frac{1}{2} \sum \text{TEU}$$

In the example given above, the excess tonnage is: $268,500 - (247,294 / 2) = 268,500 - 123,647 = 144,853$.

Ship(s) with a net tonnage of 144,853 units will have to withdraw from the TTS for the fiscal year 2012. Those ships could be Ship B, Ship F and Ship J totalling 155,500 units of net tonnage or any other combination chosen by the ship manager as long as their combined net tonnage is equal or higher than the excess tonnage.

With the withdrawal of Ships B, F and J from the TTS, the new data are as follows:

The tonnage of the ships which are entirely managed from the EU/EEA territory is: $16,345 + 33,450 + 45,000 + 85,000 + 67,499 = 247,294$ (it remains the same).

The tonnage of the ships which are NOT entirely managed from the EU/EEA territory and will remain in the TTS is: $100,000 + 13,000 = 113,000$ (Ship A and Ship G).

Total net tonnage of the ships which will remain in the TTS: $(515,794 - 155,500) = 360,294$.

The percentage of the tonnage of the ships which are entirely managed from the EU/EEA territory to the new total tonnage is: $(247,294 / 360,294) \times 100 = 68.64\%$.

Q8: What are the requirements regarding “sufficient in number and qualifications personnel”?

Answer Q8

In order to be eligible to opt to be taxed under TTS, the ship manager must employ sufficient in number and qualification personnel. The requirements depend on the ship-management services provided and the number of ships under management, as shown in the below table:

Services provided	Number of ships under management	Minimum number of employees required	Qualified		
			Skilled crew managers	marine engineers	Other personnel
Crewing & Technical	1-10	5	1	1	3
	Over 10	10	1	2	7
Crewing	1-10	5	1	N/A	4
	Over 10	10	2	N/A	8
Technical	1-10	5	N/A	1	4
	Over 10	10	N/A	2	8

Q9: What is the procedure for admission to the TTS?

Answer Q9

Automatic admission – Owners of Cyprus ships

Qualifying owners of Cyprus ships do not need to exercise an option to be taxed under the TTS. They are automatically subject to tonnage tax due to their registration under the Cyprus flag unless the qualifying ships are sold, lost or broken up.

In case of re-flagging of the Cyprus qualifying ship to a foreign flag while the owner is still a tax resident of Cyprus, then this owner continues to remain in the TTS as an owner of a foreign ship until the expiration of the 10 years period (no corporate tax option).

Exercise of Option – Owners of foreign ships, charterers and ship managers

Qualifying owners of foreign ships (Community and non-Community ships), qualifying charterers, and qualifying ship managers, tax residents in the Republic of Cyprus, have the right to opt to be taxed in respect of any particular fiscal year with tonnage tax.

Qualifying owners of foreign ships, qualifying charterers, and qualifying ship managers, who intend to exercise their option for admission to the TTS, have to express first their preliminary interest to be taxed under the new TTS by completing the Form “Preliminary Interest to be taxed under the New Cyprus TTS”.

On the basis of the information provided, the DMS will create in the e-TTS an account for each company and will provide that company with its access details (log-in name and password), which will be used as soon as the e-TTS is completed and activated.

Companies which are part of a group of companies - provided, all are tax residents in the Republic of Cyprus – must indicate

the holding (parent) company and other subsidiary qualifying companies in the group, when completing the Preliminary Interest form (“All or nothing” option). A separate form has to be completed for each company. The “All or nothing” option will be exercised and implemented on a sectoral basis: therefore, the rule will apply to subsidiaries performing qualifying activities (ship owners, charterers or ship managers as the case may be) such as those performed by the company who first opted for the tonnage tax system: for example, qualifying ship managers must indicate on the Preliminary Interest form, all the companies of their group that are also qualifying ship managers (but not the group companies that are qualifying owners or charterers).

Submission of the Preliminary Interest Form is just an indication that the company is intending to opt to be taxed under the TTS and is therefore not binding.

The official application for admission to TTS is done via submission of the written Application for Approval of the Option to be taxed under the Cyprus TTS (the “Application” Form MS TT 1) addressed to the Director of DMS with a copy to the Commissioner of Income Tax, Inland Revenue Department. This form must be submitted at least thirty days prior to the 1st January of the relevant year.

The applicant company will use the access details (provided by the DMS upon submission of the Preliminary Interest Form) to enter the e-TTS and complete online the Tables A, B and C which contain all necessary information relating to the ships of the fleet of the applicant company. These Tables will then be attached to the Application Form (Form MS TT 1) together with other supporting documents listed in the Form MS TT 1.

Upon submission, the DMS Director will assess the Application and its supporting documentation and will decide, within 30 days, whether the applicant qualifies or not and will communicate the decision to the applicant and to the Commissioner of Income Tax. In case it is approved, the option shall be effective as from the date of receipt of Application and shall continue to remain in force until it expires, or it is subsequently withdrawn by the owner of foreign ships / charterer / ship manager in the same manner. A notice of withdrawal given during the term of any year shall have effect on the 31st December of that year.

Once the application for admission is approved, the qualifying owner of foreign ships/ charterer/ ship manager, must stay in TTS for a period of 10 years. There is no requirement to re-apply for submission during the 10-year period.

The consequences of non-compliance with the 10-year rule are described in Question 10.

Q10: What are the consequences when the “10-year rule” is not met?

Answer Q10

The owners of foreign ships, charterers or ship managers, who opt to be taxed under TTS, must stay in the TTS for a period of 10 years.

In case of withdrawal a penalty equal to the difference between the amount paid during the period under tonnage tax system and the amount that would have been paid if they had been subject to corporation tax is payable.

Withdrawal as a result of the disposal / termination of the charter / termination of the ship management of all ships under management, from the TTS prior to the expiration of the ten year period, is not considered to be non-compliance with the 10-year rule.

Q11: How can a foreign company be taxed under the TTS?

Answer Q11

A foreign company which owns, charters or manages a qualifying ship in a qualifying shipping activity can be taxed under the tonnage tax system if it is a tax resident in Cyprus.

Tax resident in the Republic is a company that is managed and controlled in the Republic.

Q12: What are the exemptions from Income Tax?

Answer Q12

Notwithstanding the provisions of the Income Tax Laws (Law 118 (I) of 2002 as amended) or any other Law in force in the Republic, no tax is charged, levied or collected upon the:

- Income of a qualifying owner or charterer derived from the operation of a qualifying ship in a qualifying shipping activity;
- Income of a qualifying ship manager from the rendering of qualifying services (crew and/or technical management) to a qualifying ship;
- Dividends paid directly or indirectly out of profits
 - from the operation/ship management of a qualifying ship, or
 - from the sale of a qualifying ship (only for owners);
- Bank interest earned on working capital or shipping revenue provided that the said working capital or shipping revenue is used by a qualifying
 - owner to pay expenses for the financing and/or operation and/or maintenance of ship;
 - charterer to pay expenses arising out of the charter party;
 - ship manager to pay expenses relevant to the management of qualifying ships;
- Income or profit made by a qualifying owner from the sale of a qualifying ship or from the sale of any shares in an entity that is the owner of a qualifying ship.

Q13: What is the “All or Nothing” option?

Answer Q13

In accordance with the section 46 of the Law, in case the qualifying owner, qualifying charterer and qualifying ship manager is part of a group of companies, all tax resident in the Republic qualifying companies exercising the same activity as the applicant company (i.e. owner or charterer or ship manager), must enter (by submitting separate Application(s)) the TTS as soon as one company of the group has opted to enter the TTS.

See details regarding the admission procedure for group companies in Question 9.

Q14: How is the Electronic Tonnage Tax System (e-TTS) used?

Answer Q14

The DMS has prepared an Electronic Tonnage Tax System (e-TTS) for the submission of the Application to enter the TTS and for the submission of the Tax Declaration Form for every fiscal year electronically.

The e-TTS can be accessed through the DMS website at www.shipping.gov.cy.

Qualifying owners of foreign ships, qualifying charterers, and qualifying ship managers must use their access code and password provided to them when exercising their option for admission to the TTS every time they want to access the e-TTS.

The e-TTS enables the user to complete electronically the Tables A, B and C which are requested when submitting the Application form for admission to the TTS or when submitting the Declaration form every fiscal year. These Tables provide all necessary information relating to the ships owned, chartered or managed which are required for the assessment of the entry conditions and as well as for the assessment and calculation of the tonnage tax levied.

The e-TTS calculates automatically the "Community – Flagged Share", "The 2/3 Rule" and the "Minimal Share of the Fleet in Ownership".

Upon completion of examination and assessment of the Application or Declaration forms by the DMS Officers, e-TTS stores and transfers automatically all (corrected) ships' data contained in the Tables of a specific fiscal year to the next year for future use. This means that the user has to enter only the changes from one fiscal year to the next when preparing the company's Declaration.

Q15: When is the tonnage tax payable?

Answer Q15

Owners of Cyprus ships

Terms of Payment

The tonnage tax is payable on 31st March of each year.

In case of deletion of a ship before this date, the tonnage tax is payable on the date of deletion. In case of deletion of the ship from the Cyprus Register before the expiration of the year for which tonnage tax has been paid for, the amount paid in excess shall not be reimbursed to the owner.

Late payment results in an additional annual fee of 10% on the chargeable and leviable amount of tonnage tax for every year of the delay or part thereof, until the final discharge of the chargeable and leviable tax.

Tonnage Tax payable on Provisional Registration

At the time of the provisional registration of a vessel, tonnage tax for 6 months is payable. For extending the period of the provisional registration of a vessel under the Cyprus flag for a maximum period of 3 months, additional tonnage tax for 3 months is payable.

Tonnage Tax payable on Permanent Registration

In case of a direct permanent registration of the ship, there shall be charged, levied and collected the tonnage tax corresponding to the non-expired part of the year, during which the permanent registration of the ship takes place.

Tonnage Tax payable on Parallel Registration (bareboat registration)

The tonnage tax of ships registered in parallel is payable in advance for the entire period of the parallel (bareboat) registration and is not reimbursed even if the parallel registration is terminated earlier.

Cyprus Registry Maintenance Annual Fee

An annual fee of €300,00 is payable by the registered owner of every Cyprus ship.

This fee is payable in advance on registration of the ship in the Cyprus Register and for subsequent years shall be payable together with the tonnage tax of the ship on 31st March of each year.

The annual fee is not refundable in case the ship is deleted from the Cyprus Register before the lapse of the year for which the annual fee was paid.

Owners of foreign ships, charterers and ship managers

Qualifying owners of foreign ships / charterers / ship managers are obliged, between the 1st January and 28th February of the next year following the fiscal year, to submit to the DMS Director a Declaration for Taxation of the object of the tax and to pay the calculated amount according to the Declaration. See details regarding the Declaration and payment of the calculated tax in Question 16.

Q16: What are the filing requirements?

Answer Q16

Declaration for Taxation

Qualifying owners of foreign ships / charterers / ship managers are obliged, between the 1st January and 28th February of the next year following the fiscal year, to submit to the DMS Director a Declaration for Taxation (the "Declaration" - Form MS TT 2 A/B/C) of the object of the tax and to pay the calculated amount according to the Declaration.

The Declaration of the object of the tax is submitted to the DMS in hard copy, duly signed and stamped by the company's authorised director and duly certified by an independent accountant (optional for owners of foreign ships and charterers and compulsory for ship managers). In addition, Tables A, B and C of the Declaration must be submitted to the DMS electronically, through the e-TTS.

The date of submission of the tax Declaration shall be the date on which the hard copy is received by the DMS.

In case the Declaration of an owner of foreign ships or a charterer is not certified by an independent accountant, the Director may require the said person to produce supporting documents with regard to the Declaration.

The DMS Director examines the Declaration and:

- (a) either accepts the object of the tax mentioned in the Declaration and imposes the tax accordingly, or
- (b) does not accept the object of the tax, whenever the DMS Director is of the opinion that the object of the tax of any person is reduced either by transactions which in the reasoned opinion of the Director are artificial or fictitious, or by omissions. In such case, the Director may demand from the person, the submission of additional supporting documents within a timeframe of 30 days. The Director, if not satisfied, may disregard any such transaction or omission and impose the applicable tax. The imposition of the tax is made by a notice in writing and is served personally or sent by registered mail to the person, within 120 days from the date of the submission of the Declaration to the Director or from the date of submission of any requested additional supporting documents to the Director.

Payment of imposed tax

In case where the person has paid an amount less than what had been imposed as a result of subparagraph b) described above, then the person is obliged to pay the difference within 60 days from the date the notice for the imposition of the tax was served.

In case where the person has paid an amount in excess of what had been imposed, then the Director is obliged to refund the amount of tax paid in excess, within 60 days from the date the notice for the imposition of the tax was served.

If the Declaration is not submitted or if the tax is not paid within the time limits prescribed above, interest shall be charged thereon at the rate of interest determined from time to time by an order of the Minister of Finance by virtue of the provisions of the Uniform Public Interest of Late Payment Law of 2006 (Law 167(I)/2006).

Every person who disputes the imposed tax, may file an objection in writing, to the DMS Director within 30 days from the date the notice of assessment was issued.

For more information please refer to Notification P.I. 417/2010.

Q17: What are the bookkeeping requirements for an owner/charterer/manager who has both qualifying and non-qualifying income?

Answer Q17

Qualifying owners, qualifying charterers and qualifying ship managers, who earn income from a qualifying shipping activity and at the same time earn income from a non-qualifying activity, shall maintain such books and records so that it will be possible to determine the income subject to the TTS and the other income that is taxable under the provisions of the Income Tax Laws in force.

Q18: What is the tonnage tax premium on non-Community ships listed by the Paris MOU on Port State Control?

Answer Q18

Qualifying non-Community ships, forming part of a fleet of a qualifying owner of foreign ships or charterer or ship manager, have their annual tonnage tax increased:

(a) by 30%, if the flag that they fly, appears in the Grey List of the Paris MOU;

(b) by 60%, if the flag that they fly, appears in the Black List of the Paris MOU.

The decision whether a flag appears on the Grey List or the Black List of the Paris MOU is taken by the DMS Director on the basis of the relevant table contained in the Annual Report of the Paris MOU for the year preceding the year for which the tonnage tax is due.

Q19: Is there a reduction of tonnage tax for laid-up or inoperative vessels?

Answer Q19

Reduction of the tonnage tax is granted for Owners and Charterers of Cyprus and Community ships in the cases listed below:

Laid-up ships

If the ship is laid-up for a period of at least 3 consecutive months the tonnage tax payable is reduced by 75% for the period during which the vessel is laid-up, provided that the DMS is duly notified not later than 3 months from the commencement of the lay-up period and within 6 months from the last day of the lay-up period.

Inoperative ships

If the ship is rendered inoperative for a period of at least three months due to her judicial arrest, or by act of piracy, or armed robbery, or by force majeure, then the tonnage tax payable is reduced by 75% for the period during which the vessel is inoperative.

Q20: How are the Arm's Length Principles applied in TTS?

Answer Q20

Appropriate ring fencing provisions contained in the legislation ensure that profits from other activities are not sheltered within tonnage tax.

The Law contains provisions which ensure that the arm's length principle is applied to:

- transactions made between a qualifying owner of a Cyprus or foreign ship, a qualifying charterer, or a qualifying ship manager (as the case may be) and non-qualifying persons;
- transactions between a qualifying shipping activity of a person subject to tonnage tax and another non-qualifying shipping activity carried out by the same person.

The 'arm's length' principle requires that transactions must take place at normal business terms and conditions.

Q21: How is the tonnage tax calculated for an owner/charterer?

Answer Q21

Tonnage Tax Rates For Qualifying Owners and Charterers of Cyprus and Foreign Ships

NET TONNAGE				
0 – 1,000	1,000 – 10,000	10,001 – 25,000	25,001 – 40,000	> 40,000
€36.50	€31.03	€20.08	€12.78	€7.30
per 100	per 100	per 100	per 100	per 100
units of NT	units of NT	units of NT	units of NT	units of NT

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

Practical example:

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

$$1,000 \text{ NT} : 1,000/100 = 10 \times \text{€}36.50 = \text{€}365.00$$

$$9,000 \text{ NT} : 9,000/100 = 90 \times \text{€}31.03 = \text{€}2,792.70$$

$$9,500 \text{ NT} : 9,500/100 = 95 \times \text{€}20.08 = \text{€}1,907.60$$

$$38 \text{ NT} : 38/100 = 0.38 \times \text{€} 20.08 = \text{€}7.63$$

Annual tonnage tax due = €5,072.93

Q22: How is the tonnage tax calculated for a ship manager?

Answer Q22

Tonnage Tax Rates For Qualifying Ship Managers of Cyprus and Foreign Ships

NET TONNAGE				
0 – 1,000	1,000 – 10,000	10,001 – 25,000	25,001 – 40,000	> 40,000
€36.50	€31.03	€20.08	€12.78	€7.30
per 400 units of NT				

Any residual tonnage of less than 400 units of net tonnage shall be charged proportionally.

Practical example:

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:

$$1,000 \text{ NT} : 1000/400 = 2.5 \times €36.50 = €91.25$$

$$9,000 \text{ NT} : 9000/400 = 22.5 \times €31.03 = €698.17$$

$$9,500 \text{ NT} : 9500/400 = 23.75 \times €20.08 = €476.90$$

$$38 \text{ NT} : 38/400 = 0.095 \times €20.08 = €1.90$$

Annual tonnage tax due = €1,268.22

Q23: Can shipping groups be imposed to multiple tonnage tax payments?

Answer Q23

Corporate groups with subsidiaries that are qualifying owners, charterers or managers participating in TTS, may be subject to multiple tonnage tax payments in relation to the ownership, chartering and management of the same vessel.

Practical example:

Assume a ship-owning subsidiary charters-out its vessel to a fellow ship-operating subsidiary. The group's ship-management company carries out the vessel's crewing and technical management.

The ship-owning subsidiary is a qualifying owner paying tonnage tax.

The ship-operating subsidiary which charters-in the vessel by the ship-owning company operates the vessel in a qualifying activity and has opted to be taxed under TTS as charterer. This subsidiary will therefore also pay tonnage tax.

The ship-management subsidiary offers qualifying ship-management (crew and technical) services to a qualifying vessel. The subsidiary has opted to be taxed under TTS as manager, and will thus also pay tonnage tax.

The three subsidiaries of the group will therefore be liable to tonnage tax payments in relation to the ownership, operation and management of the same vessel.

Q24: Are crew members of Cyprus ships exempted from Income Tax?

Answer Q24

Notwithstanding the provisions of the Income Tax Laws of 2002 to (No.4) of 2009 or any other Law in force in the Republic, no tax is charged, levied or collected upon the salary or other benefits from the employment of the master, the officers and other crew members of a qualifying Cyprus ship, engaged in a qualifying shipping activity.

Q25: How are the eligibility criteria examined if the owner/charterer/ship manager is part of a group of companies?

Answer Q25

If an owner or charterer or ship manager is part of a group of companies, the DMS examines the election criteria and conditions to be fulfilled to remain in the TTS on a group basis, i.e. all Cyprus tax resident companies belonging to the same Group operating in the same sector.

The term “Group” under the Law, 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.

The terms “holdings (parent)” and “subsidiary” have the meaning attributed to them by Article 1 of the Seventh Council Directive 83/349/ECC, which is normally established when a person has the ability to control more than 50% of the voting rights or has the ability to appoint the majority of the board members of another person.

The below requirements are examined by taking into consideration the totals of the companies belonging to the same group:

- The Community-flagged share requirement, applicable for owners of foreign ships, charterers and ship managers (see Question 6);
- The Minimal Share of the Fleet in Ownership, applicable for charterers (see Question 4);
- The “2/3 rule”, applicable for ship managers (see Question 7);
- The requirement regarding “sufficient in number and qualifications personnel”, applicable for ship managers (see Question 8).

See details regarding the admission procedure for group companies in Question 9, and details regarding the “All or Nothing” option in Question 13.

Contacts

For more information you may contact:

Antonis Taliotis

Partner, Tax Services

E-mail: ataliotis@deloitte.com

Tel: +357 25 868686

Other Deloitte shipping specialists:

Audit & Accounting

Costas Georghadjis

Partner, Audit Services Leader

E-mail: cgeorghadjis@deloitte.com

Financial Advisory

Nicos S. Kyriakides

Partner, Financial Advisory Services Leader

E-mail: nkyriakides@deloitte.com

George Martides

Partner, Financial Advisory Services

E-mail: gmartides@deloitte.com

Consulting

George Pantelides

Partner, Consulting Services Leader

E-mail: gpantelides@deloitte.com

Risk

Panicos Papamichael

Risk Services Leader

E-mail: ppapamichael@deloitte.com

Clients & Markets

Nicos Charalambous

Partner, Clients & Markets Leader

E-mail: ncharalambous@deloitte.com

Partners and Members of the Board of Directors

Christis M. Christoforou (*Chief Executive Officer*)

Eleftherios N. Philippou

Nicos S. Kyriakides

Nicos D. Papakyriacou

Athos Chrysanthou

Costas Georghadjis

Antonis Taliotis

Panos Papadopoulos

Pieris M. Markou

Nicos Charalambous

Nicos Spanoudis

Maria Paschalis

Alexis Agathocleous

Alkis Chistodoulides

Christakis Ioannou

Panicos Papamichael

Christos Papamarkides

George Martides

Kerry Whyte

Andreas Georgiou

Christos Neocleous

Demetris Papapericleous

Andreas Andreou

Alecos Papalexandrou

George Pantelides

Panayiota Vayianou

Agis Agathocleous

Michael Christoforou (*Chairman Emeritus*)

Our Offices in Cyprus

Nicosia

24 Spyrou Kyprianou Avenue, CY-1075 Nicosia, Cyprus

P.O. Box 21675, CY-1512 Nicosia, Cyprus

Tel: + 357 22 360300, Fax: + 357 22 360400

Limassol

Maximos Plaza, Tower 1, 3rd floor, 213 Arch. Makariou III Avenue

CY-3030 Limassol, Cyprus, P.O. Box 58466, CY-3734 Limassol, Cyprus

Tel: + 357 25 868686, Fax: + 357 25 868600

Larnaca

Patroclus Tower, 4th floor, 41-43 Spyrou Kyprianou Avenue

CY-6051 Larnaca, Cyprus, P.O. Box 40772, CY-6307 Larnaca, Cyprus

Tel: + 357 24 819494, Fax: + 357 24 661222

<http://www.deloitte.com/cy>





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