

**THE MERCHANT SHIPPING (TAXATION OF SHIPMANAGEMENT SERVICES)
REGULATIONS OF 2000¹**

Regulations by virtue of sections 5A and 12 of the Merchant Shipping (Fees and Taxing Provisions) Laws of 1992 to (No.2) of 1999

38(I) of 1992
29(I) of 1995
63(I) of 1999
73(I) of 1999.

In the exercise of the powers vested in it by sections 5A and 12 of the Merchant Shipping (Fees and Taxing Provisions) Laws of 1992 to (No.2) of 1999, the Council of Ministers makes the following Regulations:

Short title. 1. These Regulations may be cited as the Merchant Shipping (Taxation of Shipmanagement Services) Regulations of 2000.

Interpretation. 2. In these Regulations, unless the context otherwise requires-

- “object of the tax” means the provision of shipmanagement services to any ship in relation to which the provisions of section 5A(1) of the Law apply, for a period longer than one month, by a person which is subject to taxation according to Regulation 3 of these Regulations.

- “Republic” means the Republic of Cyprus.

- “Director” means the Director of the Department of Merchant Shipping of the Ministry of Communications and Works, and includes any officer of the Department of Merchant Shipping properly authorised by the Director for this purpose.

- “commercial management” means:

(a) The provision of chartering services in accordance with the instructions of the shipowner, 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 shipowners of all hire and freight revenues and

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According to Article 3 of the Constitution of the Republic of Cyprus, the official languages of the Republic of Cyprus are Greek and Turkish and therefore the present translation into English **is not the authentic version.**

any other moneys, to which the shipowners are entitled and arise out of the employment of the ship, and

(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.

-“person” means the person subject to the tax as prescribed in Regulation 3.

-“technical management” means the monitoring of the hull, the engines and equipment of the ship in order to maintain the standards acceptable by her Flag State according to the relevant Laws and Regulations in force.

-“management services relating to the supply of crew “ means services relating to the supply of either the whole or part of the crew, as this is stated in the safe manning certificate of the ship.

- “ Minister” means the Minister of Communications and Works.

-“fiscal year” means the period of twelve months commencing on the first day of January in each year.

-“tax” means the shipmanagement services tax which is imposed annually according to section 5A(1) of the Law, the amount of which is ascertained on the basis of objective criteria prescribed in the Law and in these Regulations.

Person subject to the tax.

3. Person subject to the tax, is every person which acquires income from the provision of shipmanagement services and has an office in the Republic manned as prescribed in section 2 of the Law, and which has not opted to be taxed according to the provisions of section 5A(2) of the Law.

Calculation and payment of the tax.

4. The tax is calculated by the person and is payable at the Department of Merchant Shipping annually, for as long as the shipmanagement contract remained in force during the fiscal year or part of it. For the purpose of calculating the tax, any fraction of the month regarding a period longer than one month, shall be considered as a whole month.

Tax declaration.

5. (1) The person is obliged, between the 1st and 31st of January of the next year following the fiscal year, to submit to the Director a declaration of the object of the tax and to pay the calculated amount according to the declaration.

(2) The type of the declaration is prepared by the Director and is approved by the Competent Authority. The declaration is made by the person on a printed form which can be obtained from the Department of Merchant Shipping. The fact that a person has not received a printed form from the Director, does not constitute a

defence.

(3) In case the declaration is not certified by an independent accountant practising in the Republic and duly authorised by the Minister of Finance to prepare accounts and computations of objects of the tax, the Director shall require the person to produce supporting documents with regard to the declaration.

Examination of the tax declaration and imposition of tax.

6. (1) The Director examines the declaration mentioned in Regulation 5 above 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 he is of the opinion that, with regard to a particular fiscal year, the object of the tax of any person is reduced by transactions which in the opinion of the Director are artificial or fictitious. The Director may disregard any such transaction and impose the tax on the basis of the correct object of the tax.

The imposition of the tax is made by notice in writing and is served personally on or sent by registered post to the person within sixty days from the date of the submission of the declaration to the Director.

(2) (a) In case where the person has paid an amount less than what had been imposed, then the person is obliged to pay the difference within sixty days from the date the notice for the imposition of the tax was served.

(b) In case where the person has paid an amount greater than what had been imposed, then the Director is obliged to refund the additional amount of tax paid, within sixty days from the date the notice for the imposition of the tax was served.

(c) In case where the payable/ refundable tax does not exceed the amount of twenty pounds, this tax is brought forward to the following fiscal year.

Non-submission of a tax declaration.

7. In case where a person has not submitted a declaration and the Director is of the opinion that such person is obliged to pay tax, the Director may within six years from the expiration of the fiscal year determine, according to his judgment, the object of the tax and impose the tax on the person according to the type of the shipmanagement services provided.

The imposition of the tax is made by notice in writing and is served personally on or sent by registered post to the person and the person

is obliged to pay the tax and interest for late payment within thirty days from the date the notice was served.

Objection to taxation.

8. (1) Every person who disputes the imposed tax, may by notice of objection in writing, apply to the Director for the review and revision of same. The notice must state the grounds of the objection and must be submitted not later than thirty days from the date the notice of imposition of the tax was served as provided in Regulations 6 and 7.

(2) In case where a person had not submitted a declaration to the Director, in order for the objection to be examined, the person must first pay the tax and the interest for late payment as provided in Regulation 7 and submit a declaration for the period for which the objection relates to.

(3) After receipt of the objection referred to in paragraph (1), the Director may require by notice in writing from the person who submitted the objection, to furnish within a specified time-limit, such particulars as the Director may deem necessary for identifying the object of the tax.

(4) When an agreement is reached between the Director and the person objecting to the tax, the tax shall be amended accordingly, and a notice in writing shall be served upon such person for the payable / refundable tax, which must be paid / refunded within thirty days from the date the agreement is reached.

(5) When no agreement is reached between the Director and the person submitting the objection regarding the tax, the Director determines the tax on the basis of the particulars he possesses, and informs the person by notice in writing for the payable / refundable tax, which must be paid / refunded within thirty days from the date of issue of the decision regarding the objection.

(6) In all cases, the decision of the Director regarding the objection submitted under paragraph (1), must be issued the latest within three months from the date on which the person who has objected the tax submitted to the Director a notice of objection in writing.

In case the time-limit of three months expires and the Director has not yet issued his decision, the Director is obliged to amend accordingly the imposed tax on the basis of the declaration of the object of the tax made by the person who has objected the tax, and to serve him with a notice in writing for the refundable tax, which is refunded within thirty days from the expiration date of the period during which the Director had to issue his decision regarding the submitted objection.

It is provided furthermore that, the three months period is extended by the period for which the person taxed delays, beyond the time-limit specified by the Director according to the provisions of paragraph (3), to furnish the additional particulars which may be deemed necessary

during the review of the case.

*Recourse against
a decision of
the Director.*

9. (1) Any person who within the objection procedure has failed to come to an agreement with the Director as provided in paragraph (5) of Regulation 8, and continues to consider himself aggrieved by the tax imposed upon him, is entitled to :

(a) make a recourse to the Supreme Court according to Article 146 of the Constitution of the Republic , or

(b) make an hierarchical recourse to the Minister against the said decision, which must be accompanied by all relevant evidence, within an irreversible period of forty-five days from the date of notification of the decision of the Director, by registered post to his last known address or by personal service on him .

The onus of proving that the taxation in relation to which the hierarchical recourse to the Minister is made, is excessive, lies with the person making the recourse .

(2) The Minister notifies the hierarchical recourse made by the applicant to the Director and requires from the Director the submission within a time-limit of fifteen days of a written report and of any particulars he thinks necessary. Upon receipt of the written report made by the Director, the Minister examines the hierarchical recourse. During the examination of the hierarchical recourse, the Minister may offer a hearing to the applicant or his representative, as well as to the Director, or he may give them the opportunity to express their views in writing with regard to any matter relating to the examined recourse.

Provided that, neither the Director, nor the applicant have the right during the examination of the recourse by the Minister to present grounds or particulars which have not been furnished during the examination of the objection of the applicant by the Director, unless such particulars, due to proven grounds of objective inability, could not have been furnished by the applicant at the given stage or been revealed under the circumstances from the reasonable investigation by the Director:

It is further provided that hierarchical recourses, which in the opinion of the Minister are unfounded, may be summary examined and may be rejected without calling before him the applicant or the Director.

(3) The Minister decides on the hierarchical recourse not later than six months from the date when the person objecting submitted the hierarchical recourse to him.

(4) Upon the conclusion of the examination of the hierarchical recourse, the Minister may on the basis of the particulars furnished to him, issue one of the following decisions :

(a) Cancel or ratify in its entirety or in part the decision of the Director,

(b) amend the decision of the Director,

(c) issue a new decision in replacement of the decision of the Director,

(d) refer back the case to the Director with instructions to take specific action.

(5) Any person who considers himself aggrieved by the decision of the Minister on the basis of the provisions of the previous paragraph is entitled to make a recourse to the Supreme Court according to Article 146 of the Constitution.

(6) If as a result of the decision of the Supreme Court or of the Minister, it becomes necessary to make a new imposition of tax in order to give effect to the decision of the Supreme Court or of the Minister, such new imposition of tax is made the latest within a period of two months from the date of the issuance of the decision of the Supreme Court or of the Minister. Provided that in such cases, the provisions of paragraph (2) of Regulation 6 apply.

Rectification of omissions, undercharges, or surcharges of tax.

10. If the Director is of the opinion that a person has not been taxed, or has been taxed with an amount less than what he was obliged to be taxed, or has paid tax in excess of the tax due, the Director is empowered to carry out by notice in writing, within one year from the expiration of the fiscal year, an additional imposition of tax for the collection of the tax due, or the refund of the tax paid.

Power of Director to require particulars to be furnished.

11.(1) The Director may by notice in writing, require any person to furnish him with such particulars and documents in his custody or under his control, which relate to the object of the tax of this person, for any fiscal year, which in his opinion are deemed necessary for the purposes of the Law and these Regulations.

(2) The Director may require any public officer to furnish him with such particulars as may be required for the purposes of the Law and these Regulations and which may be in the possession of the officer.

(3) Any public officer having in his custody any registers, books, records, or other documents the inspection of which may assist in securing the tax or to prove or lead to the discovery of any fraud or omission in relation to the tax, is obliged to permit any person authorised duly and in writing by the Director to inspect at all reasonable times such registers, books, records, or other documents and to take such notes and copies as he may deem necessary without payment of any fee or charge.

(4) No public officer shall by virtue of the provisions of this Regulation, be obliged to disclose any information or particulars

regarding which he is under a statutory obligation to observe absolute confidentiality.

Interest for non-payment of tax in time.

12. If the tax is not paid by the date prescribed in Regulation 5, it shall be collected with interest at a rate of 5% per annum on the amount of the payable tax, as long as the tax is paid within six months from the prescribed date, and with interest at a rate of 9% per annum, on the initial amount of the due tax, in case of non-payment of the tax within the six months time-limit.

For the purposes of this Regulation, the annual interest is calculated on the basis of the completed months for which the payment of the tax is delayed.

Official secrecy.

13. (1) The Director shall be responsible for the correct and due application of the Law and of these Regulations, and for this purpose he may do all such acts as he may deem necessary or expedient for the application of the provisions of the Law and of these Regulations.

(2) Any person exercising duties or carrying out a service for the application of the Law and of these Regulations, is obliged to regard and deal with any particulars which come to his knowledge, any tax declarations, and any documents relating to the object of the tax of any person as secret and confidential.

(3) A person who has knowledge of any particular, or has in his possession or under his control, or may be informed of the content of any document or tax declaration relating to object of the tax of any person, is obliged to refrain at any time from conveying or communicating or attempting to convey or communicate the content thereof, except in the cases where the conveyance or communication is done for the purposes of the Law and these Regulations.

Provided that the Minister may, in the public interest, authorise the conveyance or communication of such information or the content of such documents, or tax declarations, to a person or persons as he shall specify.

(4) Infringement of the obligation provided in paragraphs (2) and (3) above, constitutes a disciplinary offence.

Power of Director for search.

*4 του 1978
23 του 1978
41 του 1979*

14. The Director is deemed to have the same powers as those attributed to the Director of the Department of Inland Revenue by virtue of section 32 of the Assessment and Collection of Taxes Laws of 1978 until 1999, in relation to carrying out an on-the-spot search.

164 του 1987
159 του 1988
196 του 1989
10 του 1991
57 του 1991
86(Ι) του 1994
104(Ι) του 1995
80(Ι) του 1999
153(Ι) του 1999.

Managers of legal persons.

15. The manager or other individual having the management of any legal person shall be responsible for submitting the declaration and carrying out all other necessary acts and representations required to be done by virtue of the Law and these Regulations for the payment of the tax imposed on such legal persons. Provided that the submission of the declaration and the carrying out of all the necessary acts and representations required to be done by virtue of the Law and these Regulations for the payment of the imposed tax on these legal persons, can be carried out by certified auditors, provided that they are duly authorised by the legal person.

Particulars, documents and records to be kept.

16. (1) The person is obliged to keep the relevant particulars, documents and records with regard to the imposition of the tax. Provided that the Director may exempt any person from this obligation in the case where this is not practically applicable, upon a request from this person, but to demand from this person to keep such evidence which in his opinion is necessary for the purpose of ascertaining the tax of this person.

(2) The particulars, documents and records shall be kept for a period of at least seven years from the completion of the entries or transactions to which they refer, unless the Director notifies the interested person to the contrary.

(3) The Director shall have the right, during any reasonable time, to check and inspect all the particulars, documents and records which are kept according to paragraph (1), and for the purposes of the Law and these Regulations, he may obtain extracts or copies of such particulars, documents or records.

Validity of notices.

17. Any notice issued by the Director under the provisions of these Regulations shall be valid if it purports to have been given by the Director or other authorised public officer and if it bears the name, printed or written thereon, of the Director or such public officer, unless it is proved that the notice was not given by the Director or such public officer :

Provided that any notice issued by the Director requiring any person to furnish particulars as provided by these Regulations, shall be signed personally by the Director or such public officer.

Service of notices.

18. The notices shall be served on a person either personally or by being sent by registered post to the last known address of the person. In the latter case, the notices shall be deemed to have been served, not later than the seventh day following the day on which the letter was posted. In proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

Court proceedings for the collection of the tax.

19. The Director may institute Court proceedings for the payment of the tax against any person charged with the tax and he may collect same with all legal costs as a debt owed to the Republic.

False statement criminal offence.

20. (1) Any person who fraudulently or willfully submits any incorrect statement or declaration or furnishes any incorrect information, documents, or declaration in connection with the ascertainment of his liability to tax, shall be guilty of an offence.

(2) Any individual who aids, abets, assists, counsels, incites or induces a person-

(a) to make, deliver or furnish under these Regulations any declaration, statement, information, documents or particulars which are false in any material particular; or

(b) to keep or prepare any document or information which is false in any material particular concerning any object of the tax on which tax is payable, shall be guilty of an offence.

(3) Any individual who commits any offence specified in paragraphs (1) or (2) shall be liable on conviction to a fine not exceeding one thousand five hundred pounds or to imprisonment for a term not exceeding three years or to both such sentences, and if being a person convicted of an offence specified in paragraph (1) shall, in addition-

(a) pay the amount of tax lost as a result of his fraudulent or wilful act; and

(b) be chargeable by the Court with a further sum not exceeding double the additional tax properly chargeable on the object of the tax for the specific year.

The additional sums specified in subparagraphs (a) and (b) shall be collected in the manner provided in these Regulations.

(4) For the purposes of paragraph (2) a declaration, statement, information, document or particulars shall be deemed to be false in a material particular, if any information or amount which should have properly been included therein, is wilfully omitted therefrom.

(5) Notwithstanding the provisions of any Law in force at the time, the President of a District Court or a Senior District Judge or a District Judge shall have jurisdiction to try any offence under the provisions of this Regulation and to impose the sentences specified therein.

Other offences.

21. (1) Any person who refuses or fails or neglects to submit a declaration or to furnish any particulars or to perform any duty required under the provisions of the Law and these Regulations and any person who otherwise contravenes the provisions of the Law and these Regulations, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five pounds for each day during which his refusal, failure or negligence persists, or to imprisonment for a term not exceeding six months or to both such sentences.

(2) The Court may in addition order the person convicted to give such notice, statement, list or particulars as may have been required of him.

(3) Any person who without any excuse omits any object of the tax from the declaration of the object of the tax, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand pounds and he shall in addition-

(a) pay the amount of tax lost as a result of his omission or act; and

(b) be chargeable by the Court with a further sum not exceeding double the difference between the tax properly imposed and the tax which would have been imposed had the taxation been based on the declaration submitted by him.

Compounding of offences.

22. The Director may compound any offence committed contrary to the provisions of these Regulations and may also before the judgment of the Court, compound any proceedings thereunder on such terms and conditions as he, in his discretion, thinks proper, with full power to accept from the person liable, a payment in money not exceeding the maximum penalty the person is liable or alleged to have been liable under the provisions of these Regulations for such offence.

No prosecution without the consent of the Attorney- General of the Republic.

23. No prosecution for any offence under these Regulations shall be instituted without the consent of the Attorney-General of the Republic.

Entry into force of Regulations. Transitory arrangements.

24. (1) These Regulations shall come into force from the date of their publication in the Official Gazette of the Republic and shall not apply for the fiscal year 1999.

(2) For the fiscal year 2000, the time-limit provided in paragraph

(1) of Regulation 5, regarding the obligation to submit to the Director a declaration of the object of the tax and to pay the calculated amount, is deferred for the period between the 1st and the 30th of March 2001.
