



# Shipping Deputy Ministry issues clarifications regarding “Ancillary Services”

18 May 2020

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## In brief

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Following up the enactment of the amendments to the tonnage tax legislation (as agreed with the European Commission) by the Cyprus Parliament on 15 April 2020, the Shipping Deputy Ministry ('SDM') issued a Circular No. 10/2020 (Circular) on 24 April 2020 which provides a synopsis of the key amendments introduced to the Merchant Shipping (fees and Taxing Provisions) (Amendment) Law of 2020 (Law 39(I)/2020) ('MSL').

The key amendments were described in detail in our previous update of 16 April 2020 except for the definition of ancillary activities which is outlined in the Circular.

In addition to the above Circular, on 28 April 2020 the SDM published 'The Tonnage Tax (Ancillary Activities to Maritime Transport) Notification of 2020' (P.I 182/2020) ('Notification') providing a detailed list of activities which constitute 'ancillary activities to maritime transport' and thus are eligible for tonnage tax in compliance with the relevant European Union policy, the Community Guidelines for State aid to maritime transport and the European Commission decision practice.

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## In detail

The Circular introduced a definition of what will constitute “ancillary activities to maritime transport” under the MSL, more precisely ancillary activities are defined in article 2 of the MSL as:

- (i) the activities related to a qualifying ship under tonnage tax, which have a substantial connection with the core maritime transport activities of a qualifying owner or a qualifying charterer, but which exclude commercial activities that form part of an operation of a port carried on for profit, or
- (ii) where the qualifying owner or the qualifying charterer of a qualifying ship under tonnage tax is a member of a group of companies, the activities related to such qualifying ship’s core maritime transport activities provided by another member of that group which is a tax resident of the Republic.

In addition to the definition, the published Notification provides a comprehensive list of the activities which constitute “ancillary activities to maritime transport” in accordance with article 2 of the MSL.

In more detail the following ancillary activities were incorporated in article 2 of the MSL:

- in relation to the carriage of passengers by sea, all hotel, catering, entertainment and retailing activities on board of a qualifying ship under tonnage tax, including inter alia:
  - a) the sale of alcoholic beverages, perfume and tobacco;
  - b) the exchange of currencies for personal use;
  - c) health, sport, beauty, spa and wellness services on board;
  - d) rental of advertising facilities on board;
  - e) renting out of ship premises to shop and service's operators;
  - f) betting or gambling;
- the loading and unloading of cargo from a qualifying ship under tonnage tax operated by a qualifying owner or charterer, and the provision by such qualifying owner or qualifying charterer of facilities or means used exclusively for those purposes;
- the consolidation or breaking of cargo carried on a qualifying ship under tonnage tax operated by a qualifying owner or a qualifying charterer, immediately before or after the voyage, where the activity is not haulage related;
- the temporary placement of cargo carried on a qualifying ship under tonnage tax operated by a qualifying owner or a qualifying charterer, on or at the dockside, where the activity is not part of a long-term storage operation;
- the operation of ticketing facilities and passenger terminals in connection with shipping activities subject to tonnage tax;
- the operation of office facilities in connection with shipping activities subject to tonnage tax;

- the carriage of passengers or cargo otherwise than on board a qualifying ship under tonnage tax operated by a qualifying owner or a qualifying charterer, where:
  - a) there is a single contract with the customer for a journey which includes a voyage on the qualifying ship under tonnage tax; and
  - b) the transport for the remainder of the journey is purchased or obtained by the qualifying owner or the qualifying charterer by provision which would have been made as between independent enterprises;
- administrative and insurance services directly related to the carriage of passengers or cargo, including under a single journey contract which includes a voyage on the qualifying ship under tonnage tax;
- the provision of holidays, sold to the customer under a single contract where:
  - a) part of the holiday is a voyage on a qualifying ship under tonnage tax operated by the qualifying owner or the qualifying charterer, and the remaining part may include all means of transportation of the customer to and from the ship by land or by sea or by air and may include any interim accommodation ("land-based part");
  - b) the land-based part is purchased or obtained by the qualifying owner or the qualifying charterer under arm's length conditions;
- the rental or provision to customers (i.e. to shippers) of containers for goods to be carried on a qualifying ship under tonnage tax operated by the qualifying owner or the qualifying charterer;
- the rental or provision of containers to a qualifying owner or a qualifying charterer by an entity member of the same group of companies, in relation to goods to be carried on a qualifying ship under tonnage tax operated by the qualifying owner or the qualifying charterer, provided that in all cases the entity member of the group of companies is a tax resident of the Republic;
- the leasing of containers from a qualifying owner or the qualifying charterer;
- the provision of excursions for passengers of a qualifying ship under tonnage tax operated by the qualifying owner or the qualifying charterer, where any cabin for the passenger remains available for exclusive use.

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## The takeaway

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The Circular and Notification issued by the SDM serves as a valuable input which aids in offering a more clear and robust approach to how tax payers can perceive and determine ancillary services.

It also offers great opportunities for cruise vessels to benefit from the new provisions of the Cyprus Tonnage Tax regime.

Furthermore, companies which belong in a group with qualifying owner/charterers taxed under the Cyprus Tonnage Tax regime, have now the opportunity to be taxed under the MSL provisions.

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## Let's talk

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For a deeper discussion of how this issue might affect your business, please contact:

Cleo Papadopoulou, Limassol  
Partner  
In charge of Transportation & Logistics  
T: +357 - 25 555 230  
[cleo.papadopoulou@pwc.com](mailto:cleo.papadopoulou@pwc.com)

Zenonas Ioannou, Limassol  
Senior Manager  
Tax Advisory  
T: +357 – 25 555 223  
[zenonas.ioannou@pwc.com](mailto:zenonas.ioannou@pwc.com)

Or your usual PwC contact  
**PwC Cyprus**  
PwC Central  
43 Demostheni Severi Avenue  
CY-1080 Nicosia, Cyprus  
P O Box 21612  
CY-1591 Nicosia, Cyprus  
[www.pwc.com.cy](http://www.pwc.com.cy)