



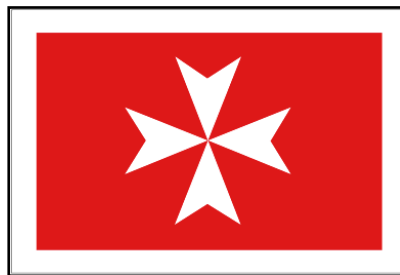
REGISTRATION OF SHIPS AND YACHTS IN MALTA

2013

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A. INTRODUCTION

As at July 2012, around 45.6 million gross tonnage was registered under the Maltese Flag, which means that the Maltese Registry is the largest ship register in Europe. Undoubtedly, the geographical location of the island at the very centre of one of the busiest seaways in the world played its fair share to shape such success. In addition, there are incessant efforts to transform the Malta Flag into a flag of confidence rather than a flag of convenience whilst at the same time promoting an effective fiscal package. In fact, the success story of the Maltese Flag cannot be complete without emphasising such contributing factors as the Maltese labour force, fiscal incentives and a robust regulatory environment. It is a concoction of all the above that have resulted in the red flag with a white Maltese cross being spotted flying a vessel's mast in virtually every major port around the globe.



The above flag is the maritime flag for all Maltese vessels. Additionally, the homeport of every Maltese vessel is Valletta.

B. THE MALTA SHIP REGISTRY – BENEFITS AT A GLANCE

To further enhance Malta's success story in the shipping industry, the new Maltese authority (Transport Malta) has been committed more than ever to promote the island's registry. In fact, the whole Maltese package includes –

- A reputable and internationally respected ship register;
- A 24 hour, seven days a week service oriented towards the customer;
- A register that is on the White list and on the Low Risk Ship list of the Paris MoU;
- Ships may be registered in the name of legally constituted corporate bodies or entities irrespective of nationality or by an EU citizen;

- Preferential treatment in certain ports;
- Unsurpassable incentives to owners, registered charters and financiers;
- No trading restrictions;
- No nationality restrictions for the crew;
- Progressive reduction in registration fees and tonnage costs;
- A European flag with a long maritime tradition;
- Registry requirements which are well-known to main shipyards;
- Whole range of maritime services available which includes a highly reputable legal and corporate services supporting management and administration.

C. SHIP REGISTRATION

Registration is a rather swift procedure. The ship is first provisionally registered under the Maltese Flag for 6 months. Such period is extendible for further periods not exceeding 6 months in aggregate. Upon the satisfaction of all documentation required by the authority, the ship shall be awarded a permanent registration, which is subject to annual renewal.

The documentation necessary for provisional registration includes –

- Application for registration by the owner or the authorised representative.
- Proof of qualification to own a ship – in the case of a company, its statute.
- The appointment of a resident agent in the scenario of non-Maltese ship owner.
- International Tonnage Certificate of the ship (where applicable).
- Declaration of Ownership made in front of the Registrar by the owner or an authorised representative.
- Evidence of seaworthiness, in the case of trading ships -
 - verification of class with a recognized organization, and
 - information of the ship statutory certification.
- Company ISM compliance (for ships).

- A request for the administration to authorize the appropriate recognized classification society to issue the ship's and company statutory certificates.
- Application for Minimum Safe Manning Certificate (where applicable).
- Application for Ship Radio Station License.
- Initial registration fee and tonnage tax¹.

The following documentation² must be submitted within 1 month of provisional registration –

- A bill of sale (in case of previous ownership) or otherwise a builder's certificate in the applicant's name.
- Proof of cancellation from foreign registry where ship was last documented (where applicable) and that such registry has been duly closed.
- Proof that the ship has been marked in accordance with the law.
- Updated copy of the Continuous Synopsis Record (in case of SOLAS ships).

D. QUALIFICATION CRITERIA TO REGISTER A SHIP

Every vessel used in navigation, whether self-propelled or not, including barges, pontoons, floating establishments, installations or structures, oil rigs and other similar vessels may be registered under the Maltese Flag. Likewise, so can a ship under construction.

Such vessels are eligible for registration provided they owned by –

- any EU citizen or
- any corporate entity (whether Maltese or foreign) provided it enjoys legal personality.

Though the incorporation of a Maltese company is not a prerequisite, such incorporation is a relatively easy and inexpensive procedure and can be executed in 2 working days provided all the documentation required is provided. The Malta company offers immense

¹ Please consult Registration Fee & Tonnage Tax Schedule on page 15.

² The Authority reserves the right to request for additional documentation.

flexibility in the sense that there are no restrictions as to the nationality of shareholders and directors.

Ships owned by foreign owners have to appoint a Malta-resident agent in order to serve as a representative thereof and liaise with the relative Maltese authorities. We offer the services of acting as a Malta-resident agent for our clients.

E. AGE OF THE SHIP

In general, the following rules apply with regards to the age of the ship –

- As a rule, trading ships over 25 years old shall not be registered.
- Ships over 20 years old but less than 25 years shall be required to undergo successfully an authorized flag State inspection prior to provisional registration.
- Ships between 15 and 20 years shall be required to undergo successfully an authorized flag State inspection prior to or within one month of provisional inspection.

F. BAREBOAT CHARTER REGISTRATION

The Maltese law caters for bareboat charter registration of foreign ships under the Maltese Flag as well as Maltese ships registered under a foreign flag.

As a concept, the term 'bareboat charter' implies the contract for the lease or sub-lease of a ship for a stipulated period of time, by virtue of which the charterer shall acquire full control and complete possession of the ship, including the right to appoint her master and crew for the duration of the charter but excluding the right to sell or mortgage the ship.

The basic principle is that matters regarding title over the ship and mortgages are governed by the underlying registry whilst the bareboat charter registry governs the operations of the vessel. Ships that are bareboat charter registered shall enjoy the same rights as any other Maltese registered ship.

The duration of such registration shall be for a period not exceeding the duration of the bareboat charter or the expiry date of the underlying registration (in the registry of the

State in which the owners of a ship are registered as owners), whichever is the shorter period, but in no case for a period exceeding two years. Such registration may be extended.

The eligibility for registration is almost identical to that discussed above with the exception that -

- Ship is bareboat chartered to a body corporate, entity or such other person qualified to own a Maltese ship;
- The ship is not a Maltese ship and is registered in a compatible registry;
- The ship is not registered in another bareboat charter registry;
- The following documentation is submitted –
 - Registration application;
 - Declaration of bareboat charter with charter agreement;
 - Extract of the underlying registration;
 - International Tonnage Certificate of the ship;
 - Consent in writing of the underlying registry, owners and mortgagees;
- Payment of registration fees and annual tonnage tax (identical to the normal registration).

G. EXEMPTION TO NON-RESIDENT SHIP OWNERS

As an aside, the Maltese Income Tax laws provide a blanket exemption on the profits of a non-resident ship-owner provided that the country to which the non-resident ship-owner belongs extends a similar protection to Maltese ship-owners.

H. THE MALTESE TONNAGE TAX SYSTEM

In principle, the Tonnage Tax system imposes on the ship owner the obligation to pay an amount of tax that is linked directly to the tonnage operated. In brief, this regime offers two main exemptions from Malta tax, being:

- Income derived from shipping activities by a licensed shipping organization; and

- Income derived by a ship manager from 'ship management activities'.

The following parts of this explanation are specifically written to help understand the concepts of 'shipping organization' and 'ship management activities'.

I. EXEMPTIONS FROM SHIPPING ACTIVITIES

The general rule is that income derived from shipping activities by licensed shipping organisations is exempt from income tax in Malta. For this exemption to apply, the following conditions must be satisfied:

- The entity must qualify as a shipping organization;
- The ship must be a tonnage tax ship;
- The income must qualify as income derived from shipping activities;
- All applicable registration fees and tonnage taxes must be paid;³
- Separate accounts must be kept to clearly distinguish income and disbursements relating to shipping activities from those of any other business.

In line with the above, it is important to take into account the following clarifications:

Shipping Organization

A shipping organization qualifies as such if its principal objects include:

- the ownership, operation, administration and management of a ship whether registered in Malta or otherwise together with any ancillary security, commercial and financial activities connected thereto; and/or
- holding of shares or other equity interests in such entities, whether Maltese or otherwise; and/or
- raising of capital via loans, issuing of guarantees or securities by the shipping organisation to achieve the purposes of the shipping organization or for other shipping organizations within the same group.

³ See Appendix I on pages 15 and 16 for a complete table of the relevant tonnage tax.

As such, a shipping organisation may be set up under different vehicles, including a Maltese limited liability company (private or public), a Maltese partnership, a Trust or a Foundation as well as a foreign body corporate with legal personality that has established a place of business in Malta.

The shipping organization must obtain a licence from Transport Malta, and such licence shall be valid for a period of 5 years, renewable for further 5 years. However, shipping organizations that are registered as owners or bareboat charters of a Maltese ship are automatically deemed to be issued with a licence. There are no registration fee requirements for such licence.

Tonnage Tax Ship

A ship qualifies as a tonnage tax ship if it is of more than 1000 net tons and owned, chartered, managed, administered or operated by a shipping organization. In principle, a ship should qualify if it is:

- Registered under the Malta Flag; or
- Registered in another EU/EEA state and has paid the applicable Maltese tonnage tax; or
- Declared to be a tonnage tax by the Maltese authorities. This has included in the past
 - a ship of any net tonnage which but for such tonnage would satisfy the requirements of a tonnage ship (ex. yachts registered under Commercial Yacht Code); or
 - a 3rd country ship owned, chartered or operated by a licensed shipping organization provided that:
 - the applicable Maltese tonnage tax has been duly paid; and
 - the management of all the ships operated is carried out from the EU; and
 - the shipping organisation must own, charter or operate at least 60% of its total tonnage under an EU/EEA flag.

When a tonnage ship is not registered in Malta the tonnage tax is calculated by reference to the registration fees / tax that would have been paid had it been registered in Malta. However, if registration was paid in another state, relief may be provided against the Maltese registry fees subject to a minimum payment of 25% of the Maltese registry fees / tonnage tax.

Shipping Activities

Income must qualify as income derived from shipping activities i.e. it must relate to the international carriage of goods/passengers by sea or to the provision of other services by a ship that may be ancillary thereto including the ownership, chartering or any operation thereof.

Finally, a licensed shipping organization must apply to Transport Malta for the exemption to apply. The contents of the application letter must include the name of organization address of the registered office of the organization as well as the name and tonnage of the ship it wishes to own/operate as a tonnage tax ship. The Inland Revenue Department must confirm that no further tax is payable from the shipping activities.

J. EXEMPTIONS FROM SHIP MANAGEMENT ACTIVITIES

Via amendments in 2010, ship management activities are now also exempt from Maltese income tax. As such, these activities consist in the entire crewing of a tonnage tax ship as well as providing technical management thereto.

A ship manager must:

- Be a licensed shipping organisation which is established in the EU;
- Have assumed responsibility for technical or crew management of a ship;
- Comply with international standards and fulfil requirements under EU law;
- Include ship management activities in its object clauses of its corporate documents (Memorandum and Articles of Association);
- Register with the tax authorities.

In order for profits by a ship manager from ship management activities to be exempt from income tax in Malta, the following conditions should be satisfied –

- The ship manager must have settled all applicable registration fees and tonnage tax (subject to relief up to 25% if tax/fees are paid in a foreign registry);
- The ship manager must maintain separate accounts to clearly distinguish income and disbursements relating to shipping activities from those of any other business;
- At least 2/3rds of the tonnage of the ships to which the ship manager provides ship management activities is managed from the EU;
- At least 60% of the tonnage is registered under an EU flag.

K. OTHER FISCAL BENEFITS OF THE TONNAGE TAX REGIME

Apart from exempting income derived by shipping organizations and ship managers in the manner prescribed, the following advantages are also offered by the Maltese Tonnage Tax system:

- Exemption from income, profits or gains from:
 - the sale or transfer of a tonnage tax ship; or
 - disposal of any rights to acquire a ship which when delivered would qualify as a tonnage tax ship exempt from tax.
- Exemption from income tax and stamp duty on disposal of shares in a licensed shipping organization that owns/manages/charters a tonnage tax ship.
- Exemption from stamp duty on assignment of rights and interest or the assumption of obligations in respect of any tonnage tax ship.
- Distribution of profits from shipping activities (which are exempt from tax in the hands of the shipping organization) should also be exempt from tax at shareholder level.
- The shipping organization is not bound to subject all tonnage tax ships in the same company/group to the same tax regime.

- There is no need to file audited financial statements – these must still be prepared as per the Maltese Income Tax Laws.

In addition, licensed banks, credit or financial institutions may benefit from an income tax exemption on any interest or other income derived from financing of shipping activities or from financing a tonnage tax ship.

L. OPTING OUT OF THE TONNAGE TAX SYSTEM

Shipping Companies or Ship Managers may irrevocably renounce to the Tonnage Tax System. In such a case, the shipping profits are taxed at the standard 35% tax rate subject to the possibility of claiming double tax relief and refunds under the general tax system of Malta.

M. COMMERCIAL YACHT REGISTRATION

Until 2006, the attractive tonnage tax ship was restricted to ships with over 1,000 Gross Tonnage. The introduction of the Commercial Yacht Code however extended the fiscal benefits discussed above to commercial yachts registered under the Malta Flag in terms of such a Commercial Yacht Code.

This Code applies to yachts that:

- Do not carry cargo and
- Do not carry more than 12 passengers and
- Are operated by the owner or the body corporate owning the vessel for commercial use.

The following classes of yachts will be considered for registration under the Malta flag:

- Yachts in commercial use of not less than 15 metres in length and not more than 24 metres in length.
- Yachts in commercial use of more than 24 metres in length and less than 500 Gross Tons.
- Yachts in commercial use of more than 24 metres in length and 500 GT and over but less than 3000 Gross Tons.

The Commercial Yacht Code deals with detailed technical requirements for a vessel to be registered thereunder. In particular, the Code:

- Regulates the structural design and weather integrity of the yacht by determining the specifications of the hull, rigging, machinery, electronic equipment and yacht stability.
- Determines the safety standards on-board by regulating fire and safety equipment, radio arrangements and personnel safety.
- Ensures that the yacht complies with international environmental conventions and does not cause undue pollution.

The benefits that a Commercial Yacht can obtain by registering under the Maltese Commercial Yacht Code are, amongst others, the following:

- All the benefits relating to the Maltese Flag mentioned in section B above.
- Application of the Tonnage Tax system described in sections H to L above.
- VAT exemption on purchase of the commercial yacht and on charter operations.

N. VAT ON PLEASURE YACHT LEASING

In 2005, the Malta VAT authorities have successfully introduced a scheme targeted to mitigate the standard 18% VAT rate on yachts. The scheme revolves around a Maltese Company (the lessor) which leases out a yacht to a lessee (which may be the shareholder of the lessor). The lessee usually has an option in the lease agreement to allow him to purchase the yacht at the end of the lease. At the end of the scheme, the lessee will benefit from huge VAT savings whilst obtaining an EU VAT-Paid Certificate.

Since yachts do not spend all their time in EU waters, via the scheme, VAT is only paid on the portion of the lease during which the yacht is in EU. The 'time-spent basis' is determined by following prescribed guidelines issued by the VAT authorities. It depends on the type of the boat (whether the yacht is a motor or sailing yacht) and on the length of the craft.

O. SERVICES

We provide support and assistance by:-

- Giving preliminary advice on the ship / yacht registration;
- Liaising and meeting with the Transport Malta officials;
- Incorporating and administrating the Maltese legal entity which will apply for the registration of ship / yacht;
- On-going assistance with the Transport Malta officials;
- Implementing VAT-mitigating schemes.

P. CONCLUSION

Malta's success story in the maritime industry stems from its geographical location. However, constant efforts to further attract foreign investors to Malta have resulted in the enactment of advantageous fiscal laws and attractive schemes. Today, the Maltese Ship Registry is one of the largest in the world. In addition, EU-compliant policies have transformed the Registry into a Flag of Confidence rather than a Flag of Convenience, adding further safeguards to the already-positive list of advantages provided by the Maltese maritime history.

Q. DISCLAIMER

This publication has been prepared as a general guide and for information purposes only. It is not a substitution for professional advice. One must not rely on it without receiving independent advice based on the particular facts of his/her own case. No responsibility can be accepted by the authors or the publishers for any loss occasioned by acting or refraining from acting on the basis of this publication.

October 2013

APPENDIX I – REGISTRY FEES AND TONNAGE TAX
Section A - The Registry Fees and Tonnage Tax for all ships

Ship	Fee on Registration	Annuals	
		Basic Fees	Tonnage Tax
1. Ships less than 24m length overall			
a. Fishing Vessels of Categories A, B and C	€70	€25	€36
b. Commercial Yachts	€115	€150	€175
c. Pleasure Yachts less than 50 gross tonnage	€115	€25	€175
All other ships less than 24m length overall			
d. Less than 50 gross tonnage	€115	€25	€200
e. Of 50 gross tonnage or more	€115	€150	€200
Ships of 24m length overall or more			
2. Pleasure Yachts	25c / net tonnage subject to a minimum of €187.50	€255	40c / net tonnage subject to a minimum of €400
3. Commercial Yachts not falling under category 4	See Section B	€625 for the year of registration and €1095 thereafter	See Section B
4. Non-propelled barges, bareboat charter registered in a foreign registry, laid up or under construction excluding ships in category 2	See Section B subject to the reduced rates as in Section C	€150	See Section B subject to the reduced rates as in Section C
5. Commercial and Fishing Vessels less than 2,500 gross tonnage not falling under categories 2,3 and 4 above.	See Section B subject to the reduced rates as in Section C	€255	See Section B subject to the reduced rates as in Section C

6. All other ships of 24m overall length or more that do not fall in the above categories			
Ships less than 300 gross tonnage	See Section B subject to the reduced rates as in Section C	€625 for the year of registration and €840 thereafter	See Section B subject to the reduced rates as in Section C
Ships of 300 gross tonnage or more	See Section B subject to the reduced rates as in Section C	€625 for the year of registration and €1095 thereafter	See Section B subject to the reduced rates as in Section C

Section B - Special rates referred to in Section A

Ship Net Tonnage		Registration Fee	Annual Tonnage Tax
Exceeding	Not Exceeding		
0	2500	€625	€1000
2500	8000	€625 plus 25c per NT in excess of 2,500NT	€1000 plus 40c per NT in excess of 2,500NT
8000	10000	€2000 plus 7c per NT in excess of 8,000NT	€3200 plus 19c per NT in excess of 8,000NT
10000	15000	€2140 plus 7c per NT in excess of 10,000NT	€3580 plus 19c per NT in excess of 10,000NT
15000	20000	€2490 plus 7c per NT in excess of 15,000NT	€4280 plus 19c per NT in excess of 15,000NT
20000	30000	€2840 plus 7c per NT in excess of 20,000NT	€4880 plus 19c per NT in excess of 20,000NT
30000	50000	€3540 plus 7c per NT in excess of 30,000NT	€5780 plus 19c per NT in excess of 30,000NT
50000	-	€4940 plus 7c per NT in excess of 50,000NT	€7180 plus 19c per NT in excess of 50,000NT

Section C - Reduction or increase on the rates referred to in Section A

Age of Ship		Reduction on Registration Fee %	Reduction on Increase Annual Tonnage Tax %
Equal to or Exceeding	Not Exceeding		
Years			
0	5	50	-30
5	10	25	-15
10	15	-	-
15	20	-	+5
20	25	-	+10 (Subject to minimum increase of €1500)
25	30	-	+25 (Subject to minimum increase of €1500)
Equal to or exceeding 30		-	+50 (Subject to minimum increase of €1500)

The Firm

Kinanis Fiduciaries Limited is a Maltese corporate service provider specializing in corporate and tax advice excelling in providing the international investor with a one-stop-shop solution in doing business through Malta.

The Services

- Company Incorporations & Management
- Taxation
- Accounting & VAT
- Aircraft, Ship and Yacht Registration
- Trusts Formation
- Investment Fund License Application & Set Up
- Remote Gaming License Applications
- Intellectual Property
- Opening & Management of Bank Accounts

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