MOORE STEPHENS

Spring 2018

Bottom Line

Shipping

PRECISE. PROVEN. PERFORMANCE.

Time for shipping to review its US tax presence?

The Tax Cuts and Jobs Act (TCJA) 2017 lowered tax rates for corporations and individuals subject to US tax, most beneficially for corporations, where the top tax rate went from 35% to a flat 21%. The top rate for individuals, meanwhile, dropped from 39.6% to 37%, but with a contrasting reduction and elimination of many deductions and exemptions.

This makes the US more attractive for inbound investors, who had often been scared off by high corporate income tax rates. But potential investors may need to take a closer look at various other provisions of the new tax act in order to determine how best to take advantage of these lower rates.

In the shipping sector, many companies have been subject to the 4% tax on US Gross Transportation income under IRC Sec. 887 assessed on the gross revenue of those of their ships which enter US ports. Many shipping companies are exempt from the 4% tax under an income tax treaty with the US and their home country, or because – under IRC 883 – their home country has exempted US-flag ships from any home country tax in a similar situation. However, even if not subject to the US tax, a Form 1120F (or Form 1040NR if individual ownership is involved) must be filed in order to claim the exemption. Failure to file the form if a treaty exemption is claimed can result in a US$10,000 penalty for each year the form is not filed.

Because there is already a compliance obligation in this situation, and with the lower corporate tax rate of 21%, some companies may want to review their position and decide whether they want to take action to create a permanent establishment in the US and become subject to tax on a net rather than a gross basis. This might especially be the situation for shipping companies operating at a loss, as the loss cannot be used to avoid the 4% gross revenue tax. Some brief modelling calculations might help determine if this should be pursued. Renting a fixed place of business, and maybe employing a few local US agents, might result in a lower overall US tax liability.

For more information, contact Linus Ostberg.

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Inside

Non-dom tax update

Following the end of the tax year on 5 April, many long-term non-doms (broadly speaking, those who have been UK-resident for 15 years) will be completing a tax return on a worldwide basis for the first time. Some points for them to bear in mind:

- the 2017/18 tax return is due by 31 January 2019, but better to deal with it early;
- all sources of income and gains arising both in the UK and outside the UK will need reporting;
- it may be possible to obtain relief for amounts which have suffered foreign taxes;
- where non-UK assets have been sold, they are likely to have been rebased to their value on 5 April 2017, thus reducing the taxable gain. If the asset is, say, a listed security, the market value will be easy to obtain. But for other assets, say property, a valuation may be required;
- where an individual is a settlor or a beneficiary of a non-UK trust or a shareholder in a non-UK company, it is important to ensure that no reporting is required;
- untaxed income or gains arising overseas before 6 April 2017 and brought to the UK will need reporting on the tax return.

Although non-UK income and gains arising in 2017/18 will be taxed in the UK, and so in theory can be brought there without further tax charges, great care is needed as there are very strict rules regarding transfers from non-UK bank accounts. Moreover, potentially helpful 'unmixing' relief is only available until 5 April 2019.

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FRS 102 and strategic reports

The UK accounting and corporate reporting environment has changed significantly over the last few years with both the advent of FRS 102, replacing the old financial reporting standards, and the requirement on many shipping companies to produce a strategic report.

With the completion of two reporting cycles for FRS 102, Moore Stephens has reflected on the key themes and challenges coming out of the application of the standard. It is also timely to remind clients of the requirements and principles to bear in mind when writing their strategic reports.

Please visit **www.moorestephens.co.uk/news-views/march-2018/frs-102-key-themes-strategic-report-requirements** for further support and guidance with FRS 102 and strategic reports.

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Future planning with OpCost

Work is already well under way on the new edition of Moore Stephens' annual OpCost study, the most widely respected barometer of ship operating costs in the industry.

OpCost 2018 will benchmark 2017 ship operating costs. OpCost provides ship owners and operators with credible and reliable information about operating cost trends which is essential to inform budget planning and business strategies. It can also be used for a variety of other purposes, including in support of transfer pricing studies.

OpCost is available through its own dedicated website and benefits from a user-friendly online data collection process.

To contribute data for OpCost 2018, or for more information, please visit **www.opcostonline.com/** or contact:

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Surviving offshore maritime downturn and planning for recovery

The offshore maritime sector has undergone a difficult time in recent years but is showing nascent signs of recovery. During the same period, Moore Stephens has continued to build on its prominent position in the industry, providing an expanded range of services and advice to owners and operators thus helping them to successfully navigate the difficult market conditions and to position themselves to take best advantage of any industry upturn, not least in the North Sea.

Managing exposure to risk, developing cost control strategies, optimising the advantages of taxation changes, planning for the consequences of unit decommissioning, advising on research and development (R&D) claim opportunities, and ensuring compliance with corporate social responsibility requirements are all areas Moore Stephens has market-leading expertise and experience. This has been augmented recently with the recruitment of Adrian Mill to head up the firm's Environmental & Social Sustainability team. Adrian has previously worked in Africa and the Middle East, primarily as a project manager on large-scale multi-million-dollar infrastructure projects.

Meanwhile, Moore Stephens sponsored the Offshore Support Journal (OSJ) Environmental Award at the OSJ Awards ceremony, which was held in London in February this year. The award competed for by companies, projects or products which have made a significant contribution to a reduction in the environmental footprint of the Offshore Support Vessel industry. It was won by Wärtsilä and Eidesvik Offshore for their development of a hybrid battery-powered system which reduces the number of generators needed on board offshore supply vessels. Presentation of the award was made at the OSJ event by Cassie Forman-Kotsapa, who leads Moore Stephens' Offshore Maritime team.

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Building on Greek leadership

Moore Stephens continues to build on its leading position in the Greek shipping community. This year it is sponsoring the Athens-based maritime training institute Isalos and Greek shipping magazine *Naftika Chronika*. Shipping partner Richard Greiner was a member of the panel of experts at the Isalos *World Trade & Commerce* conference, which was held in London for the first time, in February.

The Isalos event attracted a strong gathering of familiar, established names from the Greek shipping community, as well as some newer, emerging ones. There will doubtless be a similar mix at the Posidonia exhibition and conference in Piraeus in June this year. Moore Stephens Piraeus have a stand at the exhibition and there will be a strong presence at Posidonia both from Moore Stephens Piraeus and the international shipping team.

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Shipping confidence hits four-year high

The average confidence level expressed by respondents to our Shipping Confidence Survey for the quarter ended February 2018 reached a four-year high of 6.4 out of 10.0. The likelihood of respondents making a major investment over the next year was 5.5 out of 10.0, while demand trends were expected to influence performance most significantly over the next 12 months. There was a fall in the numbers anticipating higher freight rates in the tanker sector, but an increase of same in the dry bulk and container ship trades.

Meanwhile, 36% of respondents predicted that the per-barrel crude oil price in 12 months time would be in the US$60-69 range, while 28% favoured the US$70-79 range.

Read the full survey report at
www.moorestephens.co.uk/shipping-transport

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Profile: DA-Desk

Moore Stephens believes in working closely with its clients in the interests of achieving maximum efficiency, security and cost-effectiveness.

As part of that philosophy, towards the end of last year, it joined with Dubai-based independent port costs management services specialist, DA-Desk, to host a well-attended seminar in Greece.

The seminar covered key concerns in the shipping industry, including those involving data security. Other topics covered included international payments, cyber security and compliance, and the new EU General Data Protection Regulation, which harmonises and modernises data protection requirements. The challenges faced by the industry were explained by a diverse international team of maritime practitioners familiar with the likes of pre-fixture and post-fixture activities, vessel operations, marine payments and voyage accounting, as well as professionals skilled in software development, UX design, artificial intelligence, data science, cyber security and compliance.

DA-Desk systematically handles approximately 180,000 port calls a year for its customers. Its mission, as part of The Marcura Group, is to deliver service-enabled IT platforms leveraging a set of utilities which reduce costs, administrative burden, and complexity of the day-to-day operations of ship operators.

DA-Desk's 300+ customers transact approximately US$7 billion-worth of port call-related costs annually, including approximately US$5 billion-worth of agents' payments processed through a cross-border payment platform custom-built for ship operators. Through the DA-Desk platform, port calls handled by the customer's 10,000+ port agencies are vetted and validated.

Due to the scale and sophistication of its systems, DA-Desk can provide operators with information which allows them to increase oversight into both their own activities and those of the industry, whilst introducing additional controls to enhance compliance and security.

DA-Desk believes in working with like-minded quality operators such as Moore Stephens, enabling it to deliver its platform-based services through automated systems and processes, which are supported by dedicated specialists available around the clock.

For more information, contact
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Those were the days: 1991

In 1991, Bagshaw & Co merged with Moore Stephens. While that was going on, Mikhail Gorbachev returned from holiday only to find that the Soviet Union had disappeared. The Baltic States exhaled.

While Exxon was agreeing to pay US$1billion to clean up the ***Exxon Valdez*** oil spill in Alaska, tanker freight rates – distorted by the Gulf War – were all over the place. So, too, were oil prices, which fell to US$20 a barrel at one point. The world merchant fleet aggregated 638 million deadweight tons, roughly a third of today's total.

Zambia triggered the entry into force of the Hamburg Rules governing the international carriage of goods. These equalled in unpopularity the Hague-Visby Rules (which they replaced) and were soon themselves replaced by the Rotterdam Rules, which are very popular today in land-locked countries.

European union was *de rigueur*. The EEC lifted trade restrictions, the Maastsricht treaty was readied for signature, and the final breakthrough was achieved in the building of the Channel Tunnel.

Zut alors!

For more information please go to:
www.moorestephens.co.uk/shipping-transport
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