

Tonnage Tax Cell Circular No. 2 of 2005

No.1-TT(1)Cell/2005

Dated: January 28, 2005

Subject: System for administration of Minimum Training Requirement for Tonnage Tax Company in terms of sec.115VU of Income Tax Act 1961 and guidelines issued vide Notification published in Gazette vide S.O. 1436(E) dated 30.12.04.

1.Introduction :

This circular describes the system for administering the Minimum Training Requirements to which shipping companies are obliged to comply after option has been exercised for election to the Tonnage tax regime under Chapter XII-G of the Income Tax Act 1961 as amended by Finance Act 2004. It complements and provides background to the Guidelines issued by the Central Government vide SO 1436 (E) dtd.30th December 2004.

The training requirement is an important feature of the Tonnage Tax regime to increase the pool of trained Indian [seafaring](#) officers.

2. Elements of the Scheme :

The main elements of the scheme are:

(i.) the Basic Training Commitment (BTC), an annual plan produced by the company, setting out the tonnage tax company's training obligation.

(ii.) the Annual Adjustment (AA), a retrospective update of the Basic Training Commitment made every year in respect of the preceding year, to account for any changes in training obligation arising as a result of a net increase/decrease in the number of vessels entered in the tonnage tax regime to arrive at Minimum Training Requirement for that financial year;

(iii.) Payment In Lieu Of Training (PILOT), by the tonnage tax company to the Maritime Training Trust (Trust), if necessary to meet the obligation under Minimum Training Requirements;

(iv.) Training fee payable by the trainee officer, administrative cost payable by trainee officer and tonnage tax company in equal proportion and stipend to be paid by the tonnage tax company to the trainee officers

3. Maritime Training Trust (Trust):

The Directorate General of Shipping has already taken action to set up the trust for the benefit and promotion of Indian seafaring officers;

The Trust shall be managed, administered and maintained by a Board of Trustees and shall consist of a maximum of five trustee as per the trust deed.

Initial trustees are:

1. Director General of Shipping (Ex-officio)
- 2.Senior Deputy Director General of Shipping (Ex-officio)
3. Shri Yudhishtir Khatau, MD, Varun Shipping (INSA Nominee)
4. Shri S. Hajara, Director (P&A),The Shipping Corp.of India (INSA Nominee)
5. Shri S. Venkiteswaran, Senior Advocate (Independent Nominee)

The registered office of the Trust shall be at MUMBAI or at such other place in India as the Trustees may from time to time decide. The day to day activities of the Trust shall be looked after by Chief Executive Officer (CEO). Mr. A. Raghavan has been appointed as the first CEO .

At present the Head Quarters of the Trust is at:

Indian National Shipowners Association
22, Maker Tower-F, Cuffe Parade,
Mumbai-400005.

Tel No. 022 - 22182103

Fax: 022 ♦ 22182104.

Email: mttmumbai@rediffmail.com

Main features of the Trust are as follows:

3.1 Objects:

- (i.) Providing facilities for adequate training to Indian seafaring officers;
- (ii.) To provide all necessary facilities for training and employment of shore-based and ship board officers and also to make India a leading supplier of maritime manpower to the Indian and world shipping;
- (iii.) To encourage Indian citizens to take to sea and for training Indian seafaring officers, by offering necessary incentives, employment avenues and opportunities in India or abroad;
- (iv.) Advancement of any other object of general utility for training and employment of required Indian seafaring officers;
- (v.) To institute and award fellowships, scholarships, studentships, medals and prizes in

the matter of training Indian seafaring officers;

- (vi.) To make provision for research and advisory services and, for that purpose, enter into arrangements and agreements with institutions and bodies, inside and outside of India, in the matter of training Indian seafaring officers;
- (vii.) To maintain or establish a separate cell as part of the Trust, (to be called as TT Cell) located in the Directorate General of Shipping, to implement all aspects of the Guidelines issued by the Central Government, issuance of certificates and compliance of various formalities provided in the Act and the Guidelines issued by the Central Government and incur all expenditure on employing required staff and providing necessary furniture, fixtures, appliances, equipment, telephones, computers and other paraphernalia required for an office
- (viii) To do such acts as may become necessary in the event of amendment of the Income-Tax Act relating to tonnage tax and /or the Guidelines issued by the Central Government issued there under.
- (ix) To do all such acts and things as may be necessary, incidental or conducive to the attainment of all or any of the Objects of the Trust;

3.2 Powers and Functions :

In furtherance of the Objects of the Trust and not otherwise, the Board of Trustees shall hold and stand possessed of the Trust properties upon the following trusts, subject to the powers, declarations, conditions and provisions hereinafter expressed contained and concerning the same:

- (i.) To collect, get in and receive fees and other charges for providing training or otherwise from trainee officers, interest, dividend, rent, profit, and other income of the Trust Fund from time to time as and when the same becomes due and payable;
- (ii.) To deal with such fees received, in the manner as provided in the Guidelines issued by the Director-General of Shipping, and appropriate the residual amount to the corpus of the Trust;
- (iii.) To pay out of the income of the Trust Fund all out-goings, payable in respect of the Trust Fund including all ground rent, rates, taxes relating any immovable property forming part of the Trust Fund, premium for insurance, including for professional indemnity of the Trustees, or any other costs, charges, expenses and outgoings of and incidental to the management, administration and maintenance of the Trust Fund and execution of the Trusts herein contained including wages and salaries of employees.
- (iv.) To pay, out of the income of the Trust, for setting up of an office establishment as its separate cell in the Directorate General of Shipping and to provide required staff, furniture, fixtures, appliances, equipment, telephones, computers and other paraphernalia required for an office, for the purpose of carrying out and implementing

all aspects of work in accordance with the Act read with the Guidelines issued by the Director-General of Shipping, including issuance of certificates and compliance of various formalities provided in the Act and the Guidelines, and incur all expenditure in that behalf.

- (v.) To invest all the amounts received and appropriate additions and accretions to the corpus of the Trust.
- (vi.) To employ (including appoint, dismiss, reappoint) such staff (who shall not be a Trustee) as are necessary for the proper pursuit of the objects of the Trust and to make all reasonable and necessary provision for the payment of pensions, gratuity and superannuation to staff and their dependants.
- (vii) To delegate to any one or more of the Trustees the transaction of any business or the performance of any act required to be transacted or performed in the execution of the trust and which is within the professional competence of such Trustee or Trustees: Provided that the Trustee shall exercise reasonable supervision over any Trustee or Trustees acting on their behalf under this provision and shall ensure that all their acts and proceedings are fully and promptly reported to them.
- (viii) To do all such other lawful things as are necessary for the achievement of the above objects.

PROVIDED ALWAYS that the beneficiaries of the Trust hereby created shall not be restricted to any community or caste or creed but the Trust shall be for the benefit of the Indian nationals.

And for the attainment of the Objects of the Trust and purposes the Board of Trustees shall subject as herein provided have the power: -

- (i.) to co-operate with or assist trusts, societies and institutions which have one or more similar objects;
- (ii.) to carry and conduct all activities and to do all acts and things as may be necessary or desirable;
- (iii.) to donate the net income of the Trust Fund or any part thereof and also the part or parts of the corpus, i.e. Trust Fund or any part thereof to any Trust, society or institution which has one or more same or similar objects; or
- (iv.) to amalgamate with other Trust having one or more same or similar objects.

4. Minimum Training Requirements (MTR) :

Election for the tonnage tax scheme oblige the tonnage tax company to train specified numbers of trainee Indian seafaring officers to meet "Minimum Training Requirements" (MTR). The tonnage tax companies are; of course, free to provide training to more numbers of trainee seafaring

officers over and above the specified MTR to meet their requirements.

The 'Minimum Training Requirement' for the relevant financial year shall be:

(1) in case of ship owned or chartered-in by the tonnage tax company (other than space or slot charters), the number of man-days shall be equivalent to the number of days for which such ships are operated by the tonnage tax company during the financial year multiplied by number of trainee officers required on such ships based on one (1) trainee officer for every ten (10) complement as per the Minimum Safe Manning Document or pro rata thereof:

(2) in case of space charters or slot charters, the number of man-days to be calculated by dividing the Net Tonnage of slot/space charters of the tonnage tax company by the Net Tonnage Factor and multiplying the result by number of days for which such ships are operated by the tonnage tax company during the financial year

and shall include any shortfall of the immediately preceding financial year brought forward in accordance with clause 15 of the Guidelines issued by the Central Government. It is clarified that any candidate accepted by the tonnage tax company for training shall be facilitated to complete the candidate's required period of training. This should be done in consecutive years before any other trainee is recruited.

Explanation 1: For the purpose of this clause, the Net Tonnage of slot/space charters shall be Net Tonnage as calculated under the notification issued in the official gazette vide explanation to Sec115VG of the Income Tax Act, 1961.

Explanation 2: The 'Net Tonnage Factor' shall be the factor notified by the Director General of Shipping for each financial year calculated as the aggregate Net Tonnage of all Qualifying ships registered under the Merchant Shipping Act, 1958 at the end of the preceding financial year divided by the total number of such ships at the end of the preceding financial year and shall be notified by the Director General of Shipping within 60 days from the beginning of each financial year.

5.The Training Commitment :

To implement the MTR, companies shall be required to produce a Basic Training Commitment (BTC) setting out their specific known training obligation and how it is to be met, and to submit periodic Annual Adjustments (AA) as specified in Para 7 of this circular for any change in training obligation arising due to additional vessels acquired/deleted or chartered in/out during the year

6. Basic Training Commitment (BTC) and Timing :

The BTC, which will run from 1st April to 31st March, is to be submitted to Tonnage Tax Cell of the Directorate General of Shipping within 30 days on an annual basis i.e. by 30th April.

A company's initial BTC will need to be submitted to DGS within 30 days after publishing of the Guidelines issued by the Central Government (Note: Initially the formal application for election to tonnage tax is to be made between 1st October 2004 and 31st December 2004. The training obligation for this year (2004-05) will be restricted from 1st January 2005 to 31st March 2005). Subsequent annual BTCs should be submitted to DGS not later than 30th April each year.

The BTC should relate to all vessels expected to be entered in the tonnage tax regime (owned/chartered-in, Slot/space chartered) at the date the training commitment is to come into force. It represents the minimum level of training to be provided during the year by the tonnage tax company.

6.1 BTC formats :

BTCs are set out in standard formats (**Form-1, 1(i) & 1(ii)**) and require the following information for each vessel within the tonnage tax regime:

(i.)	Ship	Name,	Official	No
(ii.)	Type		of	Ship
(iii.)		Net		Tonnage
(iv.)	Numbers of complement as per the Minimum Safe Manning Document			
(v.)	Calculation for deemed tonnage for slot/space charter			

For this financial year BTC forms should be submitted to DGS by 15th February, 2005 and for subsequent years BTCs should be submitted to DGS not later than 30th of April each year.

Based on the above details, and as per Clause 1 explanation (c) (1) & (c)(2) of the Guidelines issued by the Central Government, the tonnage tax company's basic training commitment in Man-Days will be provisionally set. Copies of the relevant tonnage certificates for every qualifying vessel and Safe Manning Document for each vessel should be attached with Form No.1.

6.2 Approval of the BTC :

1. On receipt of the BTC, Tonnage Tax Cell will check whether it meets the criteria for the scheme and will formally communicate its provisional approval or otherwise to the companies within 30 days of their receipt.
2. Should TT Cell disagree with the level of training provided for on a company's BTC, the tonnage tax company will have the right to appeal to the Director General of Shipping (DGS) within thirty (30) days of receipt of such intimation. DGS will examine the same within next thirty days and give their decision, which will be binding.

7. The "Annual Adjustment" (AA) :

- (i.) The Annual Adjustment (AA) is a retrospective update of the minimum training obligation made in the year .It accounts for actual training performance against the BTC, and for any additional training obligation arising as a result of a net increase/decrease in the number of qualifying ships operated during the preceding year.
- (ii.) In the event that a tonnage tax company significantly changes the number of vessels entered in the tonnage tax during the course of a year (e.g. as a result of an acquisition or deletion), as an exceptional procedure, it may apply to the Director General of Shipping to approve a revised BTC for the balance of the year. The tonnage tax company would need to demonstrate to the Director General of Shipping (DGS) that there were good reasons for evoking such a procedure, rather than reflecting the changed situation in the following year's BTC.
- (iii.) Because of practical constraints on companies' ability to take on additional trainee officers at short notice, any shortfalls against the BTC and/or incremental training obligation arising during the course of the BTC for a year normally will be discharged by carrying forward or through a payment, in lieu of shortfall, made to the Maritime Training Trust as stipulated under clause 15 of the Guidelines issued by the Central Government.

7.1 Annual Adjustment (AA) format :

Information as required under AA should be submitted to Tonnage Tax Cell within 30 days of the end of each year. These are set out in standard format covering following details: **(Form-2)**

- (i.) The agreed BTC during the period **(Form 1)**
- (ii.) Any changes in the agreed **BTC** arising as a result of a net increase/decrease in the number of vessels entered in the tonnage tax during the financial year.

8. Information Required by Directorate General of Shipping:

- (i) The tonnage tax company shall intimate the Tonnage Tax Cell about the scheduled period of training in respect of each of the trainee officers and the Qualifying Ship(s) on which he would be deployed, within 30 days of the start of training and any change therein, within 15 days. **(Form-3 (i))**
- (ii) The tonnage tax company shall intimate the Tonnage Tax Cell about the actual period of training as well as the Qualifying Ship(s) on which each trainee officer was deployed within 30 days of the date of completion of training. **(Form-3 (ii))**

9. Actual Training Imparted

The tonnage tax company shall submit with the annual return the summery of the actual man-days of training imparted during the financial year with respect to each trainee officer and the ships he has served. **(Form-4)**

10. Period within which training is deemed to be imparted:

It will be the tonnage tax company's obligation to ensure the selection of the proposed trainee officers well in time from their own resources or from the roster maintained by the MTT. The onus of proving that the genuine efforts were made to get such trainee officers rests with the tonnage tax company.

In order to contend that no trainee officer was available from any source, the concerned tonnage tax company will have to produce acceptable proof of the efforts undertaken by them to remit such trainee officer and a written confirmation from the MTT that no names were available in the roster. In the later case, the date to be reckoned for any exemption shall be date of such written confirmation. MTT will issue such confirmation after obtaining clearance from the Tonnage Tax Cell of the Directorate.

The following periods shall be deemed as the period during which training is imparted by the tonnage tax company **(Form 5)**.

(i) The period during which the tonnage tax company could not get any trainee officer despite due diligence **(Form 5(i))**.

(ii) The period for which a trainee officer is absent on the board of a Qualifying Ship due to delay in reporting by the trainee-officer or a delay for any reason beyond the control of the tonnage tax company, where such delay has been intimated by the company to the Director General of Shipping. **(Form-5(ii))**

11. Annual Return :

The tonnage tax company shall furnish an annual return to the Director General of Shipping within 45 days of the end of the financial year, providing the following details **(Form-6)**

(a) The calculation of its minimum training requirement for the financial year in accordance with Clause 1 Explanation (c) of the Guidelines issued by the Central Government; **(Form-2)**

(b) The period for which it has actually imparted training supported by a summary of the man-days of training with respect of each of the trainee officer **(Form 4)**

(c) The period for which it is deemed as imparting the training under clause 11 of the Guidelines issued by the Central Government; **(Form-5)**

(d) The shortfall, if any, in meeting its minimum training requirement; and

(e) The shortfall to be carried-forward, if any, under clause (15)(i) of the Guidelines issued by the Central Government, to the subsequent financial year.

(f) The shortfall for which payment in lieu of training has to be made, under clause 15(ii), 15(iii)

and 16 of the Guidelines issued by the Central Government

12. Assessing Compliance with the Minimum Training Requirements:

Based on the information as submitted in annual return **(Form-6)** as per clause 13 of the Guidelines issued by the Central Government, Tonnage Tax Cell will assess the compliance of the company with respect to Minimum Training requirements.

Where the Tonnage Tax Cell is not satisfied with the details submitted in the annual return in accordance with clause 13 of the Guidelines issued by the Central Government, he shall serve on the tonnage tax company a notice requiring it to produce within such time, not being less than 30 days and not being more than 60 days, any particulars specified therein and shall provide an opportunity of hearing to the tonnage tax company.

However, in case of any mis-reporting by companies on this account, Tonnage Tax Cell shall have the right to reopen and reinvestigate the case and take necessary action as deemed fit.

After hearing such evidence and after taking into account such particulars as the tonnage tax company may produce, the Tonnage Tax Cell shall determine the compliance by the tonnage tax company of the training requirements and shall issue a certificate stating whether or not the tonnage tax company has complied with the training requirements in respect of the relevant financial year and in case of non-compliance, specifying the number of days of shortfall in meeting the minimum training requirement to be carried forward to the subsequent financial year and the number of days of shortfall in relation to which additional payment may be payable in accordance with clause 15 of the Guidelines issued by the Central Government.

The tonnage tax company if aggrieved with the decision of Tonnage Tax Cell, may appeal to the Director General within 15 days of the date of intimation of Tonnage Tax Cell. The decision of the Director General shall be final and binding.

13. Monitoring (tracking the trainees) :

Tonnage Tax companies are required to track trainee officers in order to identify the shortfalls against the BTC at the end of each six-month period and take appropriate remedial action.

The TT Cell may check the form periodically. **(Form7)**

14. Training Fee, Administrative cost and Stipend :

The amount of training fees payable by such trainee-officer and administrative cost payable by the trainee officer and the tonnage tax company to the Trust and stipend payable by the tonnage tax company to the trainee-officer shall be prescribed and notified by issuing amendment to this circular by the Director General From time to time.

The training fee payable by the trainee officer in the name of MTT at present shall be:

- (i) For ships whose GRT is more than 500, Rs. 10,000/- for every month of training and shall be subject to a maximum of Rs. 2,00,000/- for the entire training period.
- (ii) For ships whose GRT is less than or equal to 500, Rs. 3,000/- p.m. subject to a maximum of Rs. 1,00,000/- for the entire training period.
- (iii) The administrative cost shall be ten (10) per cent of the total training fees, which shall be paid by the tonnage tax company and trainee officers in equal proportion.

This amount so collected from trainee officers will be refunded without interest to such trainee officers by MTT, in case they work for such tonnage tax companies for a period of 3 years as provided in clause 9 of the guidelines. Similarly, the stipend payable to such trainee officer at present shall be minimum Rs. 5000/- per month which will be paid directly by the tonnage tax company to the trainee officer.

The training fees and administrative cost prescribed shall be payable by a trainee officer in advance for a period of six months to the MTT. It will be the responsibility of such tonnage tax company to collect and deposit the said amounts with the MTT and obtain the suitable acknowledgement of the same.

Certain tonnage tax companies desire not to charge the training fee or the administrative cost from the trainee officers. In such case, it will be the obligation of the said shipping company to deposit the appropriate training fee and pay the administrative cost to MTT which will be dealt with as if it has been paid by the trainee officers.

15.Payment in lieu of Training (PILOT) :

In the event that the tonnage tax company is not being in a position to meet any training requirement by virtue of the type of vessels it owns, such tonnage tax company shall pay Ten (10) times of such training fees in addition to their share of the administrative cost to the Trust in lieu of their obligation as per clause 16 of the Guidelines issued by the Central Government.

For other non-compliance, it shall be 15 times of such training fee and the administrative cost as provided in clause 15 of the guidelines.

The Tonnage Tax Company will submit BTC regularly in **Form 1,1(i)&1(ii)** followed by Annual Adjustment in **Form-2** along with detailed reasoning as to why the company is not able to meet its training commitment. The Directorate General of Shipping shall on the merits of the each case grant exemption to the Tonnage Tax Company, for not complying with and permit them to opt to pay as above in lieu of training.

The Director General of Shipping on payment of the required amount will issue compliance

certificate as required under the provision of Income tax act 1961 section 115VU(2).

Sd/-
(Naresh Salecha)
Sr.Dy. Director General of Shipping

