

提示简报

Bermuda Issues Final Economic Substance Guidance Notes for Shipping Sector

百慕大发布最终版船运业经济实质指导说明

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On 7 July 2020, Bermuda’s Minister of Finance issued the final Revised Guidance Notes in relation to the Economic Substance Act 2018 (the “Act”). The Revised Guidance Notes provide sector-specific guidance for a number of relevant activities within scope of the Act. The sector-specific guidance for the shipping sector is as follows:

An entity will be carrying on the Relevant Activity of “shipping” if it engages in any of the following activities involving the operation of a ship anywhere in the world other than in the territorial waters of Bermuda:

- a. transporting, by sea, passengers or animals, goods or mail for a charge;
- b. renting or chartering of ships for the purpose described in paragraph (a);
- c. sale of travel tickets and ancillary ticket-related services connected with the operation of a ship;
- d. the use, maintenance or rental of containers, including trailers and other vehicles or equipment for the transport of containers, used for the transport of anything by sea; or
- e. functioning as a private seafarer recruitment and placement service.

The above listed activities will constitute the Relevant Activity of “shipping” only if carried on by an entity in conjunction with the operation of a ship. Where any of the above activities are carried on by an entity but do not involve the operation of a ship, the entity will not be carrying on shipping. For example, a crew management company that does not itself operate ships will not be carrying on shipping. Similarly, a travel agent selling passenger tickets, but which does not itself operate a ship will also not be carrying on shipping.

2020年7月7日，百慕大财政部长发布了与《2018年经济实质法》（以下简称“《经济实质法》”）相关的最终版《修订指导说明》。《修订指导说明》为《经济实质法》范围内的许多相关活动提供了针对具体行业的指导，其中对船运业的指导如下：

如果某个实体在百慕大领水以外的世界任何地方从事下列任何涉及船舶运营的活动，则该实体就属于在从事“船运”的相关活动：

- a. 海路收费运输乘客或动物、货物或邮件；
- b. 为(a)段所述目的而租船或包船；
- c. 出售船票并提供与船运有关的辅助票务服务；
- d. 使用、维修或租用集装箱，包括拖车和其他运输集装箱的车辆或设备，用于海上物品运输；或者
- e. 提供私营海员招募和安置服务。

以上列出的活动仅在实体与船舶运营相结合的情况下才构成“船运”的相关活动。如果实体从事上述任何一项活动但不涉及船舶的运营，则该实体就没在从事船运。例如，本身不运营船舶的船员管理公司就没在从事船运。同样，出售客票但本身不运营船舶的旅行社也没在从事船运。

Where a ship is chartered, the question of whether the ship owner or the entity chartering the ship (or both) is carrying on shipping (and the shipping Core Income Generating Activities (CIGA) being carried on by either of them) may be determined by the terms of the relevant charter party.

Example: A shipowner (“ShipCo”) charters the ship that it owns to another entity (“CharterCo”) on a bareboat basis. CharterCo operates the ship in its international cargo transport business. ShipCo will generally not be carrying on shipping, because it does not operate the ship¹. CharterCo is operating the ship and will be carrying on shipping because it is transporting goods for a charge in connection with its operation of the ship.

Shipping CIGA

The CIGA related to shipping include:

- a. **managing the crew (including hiring, paying and overseeing crew members);**
includes compliance with the Maritime Labour Convention, 2006
- b. **hauling and maintaining ships;**
involves lifting ships from the water for maintenance, and includes procuring and/or overseeing the hauling or maintenance of ships
- c. **overseeing and tracking deliveries;**
includes the logistical aspects of the transportation of cargo, including tracking package and cargo deliveries as part of the business activities of the ship
- d. **determining what goods to order and when to deliver them;**
includes determining how a ship is to be utilized, the types of cargo acceptable and the scheduling of voyages for the delivery of such cargos, and ensuring contingency arrangements are in place
- e. **organizing and overseeing voyages;**
includes the logistical aspects of the operation of ships, determining which routes to use and when, and making adequate contingency arrangements.

Tonnage Tax

Where an entity carrying on shipping as a Relevant Activity submits evidence to the Registrar that it is liable to a tonnage tax regime in a jurisdiction outside of Bermuda in respect of its shipping activity, the Registrar may regard that Entity as being a Non-resident Entity.

How can we help?

Should you have any questions in relation to the final Revised Guidance Notes for Shipping, please reach out to

如果是包船，则船东或包船实体（或两者兼有）是否在从事船运（以及由其中任何一方进行的船运“核心创收活动”（CIGA））可由相关包船合同的条款确定。

*示例：*船舶所有者（“船东”）在光船包租的基础上将其拥有的空船包租给另一实体（“租方”）。租方在其国际货物运输业务范围内运营该船。船东通常不属于在从事船运，因为其不运营该船¹。租方在运营该船，则属于在从事船运，因为租方在从事与运营该船相关的收费货物运输。

船运 CIGA

与船运有关的 CIGA 包括：

- a. **管理船员（包括招募、支付和监督船员）；**
包括遵守《2006年海事劳工公约》
- b. **拖运和维护船舶；**
涉及从水上吊起船舶进行维护，并包括采购和/或监督船舶的拖运或维护
- c. **监督和跟踪交货；**
包括货物运输的物流方面，其中包括跟踪作为船舶业务活动一部分的包裹和货物的交付
- d. **确定预订何种货物以及何时交付；**
包括确定如何使用船舶、确定可接受的货物类型以及确定运送此类货物的航程，并确保应急安排到位
- e. **组织和监督航行；**
包括船舶运营的物流方面，确定使用哪条航线以及何时使用，并做出适当的应急安排。

吨位税

如果从事船运相关活动的实体向注册处提交证据，证明对其船运活动在百慕大以外的辖区负有缴纳吨位税的义务，则注册处可将该实体视为非居民实体。

我们如何能帮助您？

如果您对最终版的船运业《修订指导说明》有任何疑问，请与康德明律师事务所中您惯常联络的律师或下列律师联系。

¹ A bareboat charter may constitute the Relevant Activity of “financing and leasing” if, for example, the terms of the bareboat charter constitute a finance lease.

光船包租可能会构成“融资和租赁”的相关活动，前提条件（比如）是光船包租的条款构成融资租赁。

your usual Conyers contact or one of those listed below.

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