



Recent court judgment serves as reminder to use BIMCO US Tax...

Owners who trade with the United States will know that under that country's Tax Reform Act 1986 they are liable for Gross Transportation Tax, which is levied on any income derived from transport that begins or ends in the US. The tax is payable on an individual basis by each of the parties in a contractual chain who derive transport related income (i.e. hire) from a US voyage. Back in 1986, BIMCO developed a standard charter party clause which provided for Gross Transportation Tax paid by the owners to be reimbursed by the charterers (which is a commercially sound practice as it would be unfair for owners to suffer a reduced income from hire as a result of the charterers' employment orders). It is essential that all the parties in the contractual chain liable for this tax who qualify for exemption, claim for such exemption. If they do not claim and they have included the US Tax Reform Clause when time chartering out their vessel, there is a risk that the time charterer may face having to pay income tax which he should not have had to pay if the owner had claimed exemption.

Just recently this US taxation scheme was subject to scrutiny at the High Court of Justice in London, when an appeal plea relating to tax reimbursement on the basis of the BIMCO US Tax Reform 1986 Clause was considered. The court confirmed that the BIMCO clause offers sufficient protection to owners, securing reimbursement from charterers on any Gross Transportation Tax levied on the owners in connection with transportation to or from the US.

This is a timely reminder to members of the importance of incorporating the BIMCO US Tax Reform 1986 Clause into charter parties, where relevant, and to ensure that any tax exemptions to which owners are entitled are claimed.

For further information regarding this issue, follow the links below to the US Tax Reform Clause and accompanying Special Circulars issued by BIMCO.

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