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“All an Investor Needs to Know About Greek Shipping Taxation; Myth & Reality”

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• Typical Structure of a Shipping Group of Companies

• Greek Taxation Regime for:
  - Shipowning / Holding Companies – Greek flag vessels [art.1-2 Law 27/1975]
  - Shipowning / Holding Companies – Foreign flag vessels [art. 26 Law 27/1975]

• Tax treatment of certain transactions/events (in case of share transfer, inheritance etc.)

• Underlying Rationale for the Special Taxation Regime:
  *The Important Contribution of Shipping in the Greek Economy*

• Hot topics... Is this regime under “attack”? 

Disclaimer: This Presentation contains only general information and a very brief description of the Greek shipping tax regime and is qualified in its entirety by the actual text of the relevant Greek laws and regulations. It is provided for informational purposes only, and should not be construed as legal advice on any subject matter nor does it create an attorney-client relationship with any person. No recipient of content from this Presentation, client or otherwise, should act or refrain from acting on the basis of any content included herein without seeking the appropriate legal or other professional advice on the particular facts and circumstances at issue. Both the Speaker and “Timagenis Law Firm” (including its partners, associates and employees), make no representations with respect to any information or material contained in this Presentation and all liability in relation to the use or reliance upon any information provided in this Presentation is excluded to the fullest extent permitted by law in respect of any loss or damage (indirect or consequential) suffered by any party for any reason whatsoever.
Basic Structure of a Shipping Group of Companies

- Shareholders
- Holding Company
- Ship-Management Company

SHIPOWNING COMPANY A
SHIPOWNING COMPANY B
SHIPOWNING COMPANY C

(ship-management agreement)
A more complex (but more common) version

Family of the Major Shareholder(s) – «Founder(s)»

3rd HOLDING COMPANY
Major Shareholder

2nd HOLDING COMPANY
Publicly Listed on NASDAQ

1st HOLDING COMPANY

Ship-Management Company
(with an office established in
Greece art. 25 Law 27/1975)

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15

30%
70%
100%
The ship-management company constitutes the “heart” of every shipping group and usually is the only company of the group with an officially established branch office in Greece (pursuant to article 25 of Law 27/1975 – previously Mandatory Law 89/1967 (often referred to as the «Law 89 Company»).

GENERALLY foreign and domestic companies which have established an office pursuant to article 25 of Law 27/1975 enjoy certain tax exemptions [see par.3(a) of this article] (i.e. not only ship-management companies but also ship brokerage companies, P&I clubs with offices in Greece etc.):

- Exemption from any tax, levy, contribution or withholding in favor of the State or in favor of any third party for the income derived from activities or the provision of services that are specifically mentioned in the license issued for the establishment of the branch office (as per the relevant Ministerial Decision published in the Greek Government Gazette).
  [→ in any case usually ship-management companies do not accumulate profits but are break-even]

- Exemption from some indirect forms of taxation (eg. stamp duty)

- Other exemptions such as from the 15% ‘special real estate tax’ (art. 15 of Law 3091/2002 – concerning companies owning real estate which do not disclose the ultimate beneficial owner of the property). This exemption applies if the real estate property is used exclusively as offices or warehouses covering the operating needs of the “Law 89 Company”. Other real estate taxes (eg. ‘Unified Real Property Tax’– ‘ENFIA’ or real estate transfer tax) are payable as in any other case.

- Possibility of claiming back VAT in accordance with Law 2859/2000 («VAT Code»).
As per par. 1 of art. 25 of Law 27/1975 such branch offices established in Greece can only engage in a very specifically delineated range of activities i.e. the said offices can only deal with:

“[…] management, operation, chartering, insuring, average adjustment, brokerage in sale and purchase or shipbuilding or chartering or insuring vessels flying the Greek or a foreign flag, of a capacity exceeding 500 GRT, except for passenger coastal vessels and commercial vessels which perform domestic voyages, [i.e. within Greek territorial waters], as well as acting as agents on behalf of shipowning companies, and businesses whose scope of work is the same as the aforementioned activities […]”

The above right of establishing such an office in Greece is exceptionally granted also to shipping companies owning or managing “salvage vessels or tug boats” irrespective of their tonnage.

Pre-condition for the applicability of the relevant exemptions → the aforementioned branch offices in Greece should «cover through the importation of foreign currency (usually US$) or euros:

a. All their annual expenses in Greece with at least an amount equal to 50,000 US$

b. Generally all their payments in Greece for their own account or on behalf of third parties (e.g. the shipowning companies under their management)
For many decades already the taxation of companies owning vessels under the Greek flag is based on a tonnage tax system, i.e. taxation depending on:
- the capacity of the vessels (Gross Registered Tonnage –GRT) and
- the age of the vessels
*irrespectively of the net profits generated through the operation of the vessels

(art. 2 § 1) Such tax imposed exhausts any obligation of the shipowning company and its shareholders, as to any form of tax on “profits derived from the operation of vessels”

(αρ. 2 § 2) “Any surplus value realized, through the sale of the vessel, the collection of insurance proceeds or through any other source, is also considered exempt income”

By virtue of an official opinion of the Legal Council of the Hellenic State (published under No.797/1991) it has been clarified that the said exhaustion/exemptions of tax obligations for profits derived out of the operation of Greek flag vessels covers also the dividends distributed upstream until the level of the ultimate beneficial owners (natural persons) irrespectively of the intermediary holding companies (See also Ministry of Finance Circular POL.1085/19.3.1998)

- Key tax provision for Greek flag vessels is: art. 2 of Law 27/1975
- Registration of larger vessels (in excess of 1500 GRT) under the Greek flag pursuant to the special regime of art. 13 LD 2687/53 (additonal benefits with decreased tonnage tax rates)
- The Greek Flag tax regime is Constitutionally Protected (Art. 107 § 1)
With an amendment of art. 26 of Law 27/1975, as of Jan 01, 2013 taxation was imposed also on vessels flying a foreign flag, if managed by companies with offices established in Greece pursuant to art. 25 of Law 27/1975 (the ship-management company is jointly and severally liable with the shipowning company for the payment of such tax)

(Art. 26 § 11) Payment of this tonnage tax exhausts any and all obligations of the shipowning company as to any type of tax, levy, contribution or withholding on income derived abroad (i.e. outside Greece) from the operation of the vessel owned by such company.

The same tax “exhaustion” / exemption covers also shareholders or partners of the relevant shipowning companies, up until the ultimate beneficial owners (natural persons), with regards to income derived through any form of distributions of net profits or dividends either directly or through holding companies, irrespectively of the number of intermediary holding companies between the shipowning company and the ultimate beneficial owner.

The tax is calculated based on the same criteria and rates as for Greek flag vessels (registered pursuant to Art.13 of LD 2687/1953)

Given that tonnage tax is usually also payable at the jurisdiction of the flag of the vessel, such tax or similar charge which has actually been paid to a foreign tax authority is deducted from the amount of tonnage tax due to the Greek Sate.
Observations:

- The fixed tonnage tax system for shipping is not a Greek “originality”. It is encountered in many other jurisdictions (within or without the EU) e.g. Cyprus, Germany, Italy, Denmark, Norway, the United Kingdom, India and in jurisdictions offering ‘flags of convenience’ such as Liberia, the Marshall Islands, Panama, the Bahamas etc.

- **Rationale:** - a stable taxation system (which allows for the exact calculation/budgeting of taxes)
  - entails minimum involvement/dealings with the Greek bureaucracy

- An important piece of legislation is art. 44 of Law 4141/2013 (as supplemented by Ministry of Finance Circular -POL 1106/14-4-2014) which clarified the requirements for justifying income derived out of dividends from shipping companies

Additional taxes in view of the Greek financial crisis:

- **“Solidarity Contribution”** ➔ Despite the aforementioned explicit reference of the relevant laws i.e. that (following payment of tonnage tax) the income from dividends is exempt from any further “tax, levy, contribution or withholding” in practice already since 2011 the “Special Solidarity Contribution” of art. 29 L3986/2011 is imposed also on shipping dividend income received by natural persons – Greek tax residents (6% >€100,000 και 8% >€500,000).

- Additional **“Voluntary Contribution of the Shipping Community”** in order to assist the country with its economic crisis ➔ through Art. 42 L4301/2014 a Mutual Accord (and its Addendum) between the Greek State and the Shipping Community was ratified:
  
  ✔ For 4 years (2014 – 2017) ➔ the vast majority of shipping companies (managed from Greece) agreed to pay double (X2) the amount of tonnage tax payable during the preceding fiscal year

  ✔ **Target:** Overall Revenues reaching €105 mil. per annum and in total €420 mil. (2014-2017)
Brokerage (et al.) Shipping Companies of Art. 25 L.27/1975

- The provisions (and exemptions) previously mentioned for ship-management companies are also applicable here.
- However, specifically for those companies which engage in chartering, insuring, average adjustment, brokerage in sale and purchase or shipbuilding or chartering or insuring vessels (i.e. except for those companies which only deal with the management and operation of vessels) the following additional tax obligations apply (in accordance with art.43 of law 4111/2013):

A) An annual levy for 8 years (2012 - 2019) was imposed on the total amount of imported foreign currency and converted in to euros (on an annual basis), according to the following table:

<table>
<thead>
<tr>
<th>Scale of annual imported amounts (in US $)</th>
<th>Rate % applicable</th>
<th>Tax for each “Bracket” (in US $)</th>
<th>Total imported amounts (in US $)</th>
<th>Total Tax Payable (in US $)</th>
</tr>
</thead>
<tbody>
<tr>
<td>For the fiscal years 2012-2015 - (as per amendment introduced by art.45 Law 4141/2013)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>200,000</td>
<td>5%</td>
<td>10,000</td>
<td>200,000</td>
<td>10,000</td>
</tr>
<tr>
<td>200,000</td>
<td>4%</td>
<td>8,000</td>
<td>400,000</td>
<td>18,000</td>
</tr>
<tr>
<td>Any Excess</td>
<td>3%</td>
<td>xxx</td>
<td>yyy</td>
<td>zzz</td>
</tr>
<tr>
<td>For the fiscal years 2016-2019 - (as per amendment introduced by par.3 sub-para D.4 of art.2 of Law 4336/2015)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>200,000</td>
<td>7%</td>
<td>14,000</td>
<td>200,000</td>
<td>14,000</td>
</tr>
<tr>
<td>200,000</td>
<td>6%</td>
<td>12,000</td>
<td>400,000</td>
<td>26,000</td>
</tr>
<tr>
<td>Any Excess</td>
<td>5%</td>
<td>xxx</td>
<td>yyy</td>
<td>zzz</td>
</tr>
</tbody>
</table>

B) 10% tax on dividends received by natural persons (Greek tax residents) from the above companies:

- Payment of this 10% tax exhausts all tax obligations of the beneficiary of the dividend (either a shareholder or a partner etc.) irrespectively of the number of intermediary holding companies which may exist.
- The above apply also with respect to profits distributed by the above companies in the form of special payments and bonus percentages made to Members of the Board and other executives.
Exemption from any **share transfer tax:**

[Art. 26 par.11 του L. 27/1975] transfer of shares in **shipowning companies** and their respective holding companies (irrespective of the underlying reason for the transaction) is exempt from any share transfer tax (as long as the tonnage tax is properly paid at the company level).

- The exemption also applies to any **capital gains tax** from the sale of shipping stock (see POL.1032/26.1.2015 and No 39/1998 official opinion of the Legal Council of the Hellenic State).

Exemption from **inheritance tax** is pursuant to 3 different (partially overlapping) provisions of the Greek legislation:

(a) Art 25 par. 2 (a) L.2961/2001

(b) Art 29 par. 1 (c) L.27/1975

(c) Art 26 par.11 L. 27/1975
Is the differentiated tax treatment of shipping compared to other activities of the Greek economy justified?
Table 2.3. Ownership of the world fleet, as of 1 January 2015 (dwt)

<table>
<thead>
<tr>
<th>Rank (dwt)</th>
<th>Country/territory of ownership</th>
<th>National flag</th>
<th>Foreign flag</th>
<th>Total</th>
<th>National flag</th>
<th>Foreign flag</th>
<th>Total</th>
<th>Foreign flag as a % of total</th>
<th>Total as a % of world</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Greece</td>
<td>796</td>
<td>3,221</td>
<td>4,017</td>
<td>70,425,625</td>
<td>209,004,526</td>
<td>279,429,790</td>
<td>74.80%</td>
<td>16.11%</td>
</tr>
<tr>
<td>2</td>
<td>Japan</td>
<td>769</td>
<td>3,217</td>
<td>3,986</td>
<td>19,497,605</td>
<td>211,177,574</td>
<td>230,675,179</td>
<td>91.55%</td>
<td>13.30%</td>
</tr>
<tr>
<td>3</td>
<td>China</td>
<td>2,970</td>
<td>1,996</td>
<td>4,966</td>
<td>73,810,769</td>
<td>83,746,441</td>
<td>157,557,210</td>
<td>53.13%</td>
<td>9.08%</td>
</tr>
<tr>
<td>4</td>
<td>Germany</td>
<td>283</td>
<td>3,249</td>
<td>3,532</td>
<td>12,543,258</td>
<td>109,492,374</td>
<td>122,035,632</td>
<td>69.72%</td>
<td>7.04%</td>
</tr>
<tr>
<td>5</td>
<td>Singapore</td>
<td>1,336</td>
<td>1,020</td>
<td>2,356</td>
<td>48,983,688</td>
<td>35,038,564</td>
<td>84,022,252</td>
<td>41.70%</td>
<td>4.84%</td>
</tr>
<tr>
<td>6</td>
<td>Republic of Korea</td>
<td>775</td>
<td>843</td>
<td>1,618</td>
<td>16,032,807</td>
<td>64,148,678</td>
<td>80,181,485</td>
<td>80.00%</td>
<td>4.62%</td>
</tr>
<tr>
<td>7</td>
<td>Hong Kong, China</td>
<td>727</td>
<td>531</td>
<td>1,258</td>
<td>56,122,972</td>
<td>19,198,299</td>
<td>75,321,271</td>
<td>25.49%</td>
<td>4.34%</td>
</tr>
<tr>
<td>8</td>
<td>United States</td>
<td>789</td>
<td>1,183</td>
<td>1,972</td>
<td>8,731,781</td>
<td>51,531,743</td>
<td>60,263,524</td>
<td>85.51%</td>
<td>3.47%</td>
</tr>
<tr>
<td>9</td>
<td>United Kingdom</td>
<td>477</td>
<td>750</td>
<td>1,227</td>
<td>12,477,513</td>
<td>35,904,386</td>
<td>48,381,899</td>
<td>74.21%</td>
<td>2.79%</td>
</tr>
<tr>
<td>10</td>
<td>Norway</td>
<td>848</td>
<td>1,009</td>
<td>1,857</td>
<td>17,066,669</td>
<td>29,303,873</td>
<td>46,370,542</td>
<td>63.20%</td>
<td>2.67%</td>
</tr>
<tr>
<td>11</td>
<td>Taiwan Province of China</td>
<td>117</td>
<td>752</td>
<td>869</td>
<td>4,681,240</td>
<td>40,833,077</td>
<td>45,514,317</td>
<td>88.71%</td>
<td>2.62%</td>
</tr>
<tr>
<td>12</td>
<td>Bermuda</td>
<td>5</td>
<td>317</td>
<td>322</td>
<td>209,818</td>
<td>41,932,611</td>
<td>42,222,429</td>
<td>99.31%</td>
<td>2.43%</td>
</tr>
<tr>
<td>13</td>
<td>Denmark</td>
<td>392</td>
<td>538</td>
<td>930</td>
<td>15,286,153</td>
<td>20,883,511</td>
<td>36,169,664</td>
<td>57.75%</td>
<td>2.09%</td>
</tr>
<tr>
<td>14</td>
<td>Turkey</td>
<td>576</td>
<td>954</td>
<td>1,530</td>
<td>8,321,506</td>
<td>19,366,264</td>
<td>27,687,770</td>
<td>69.95%</td>
<td>1.60%</td>
</tr>
<tr>
<td>15</td>
<td>Monaco</td>
<td>260</td>
<td>260</td>
<td>520</td>
<td>23,929,323</td>
<td>23,929,323</td>
<td>47,858,646</td>
<td>100.00%</td>
<td>3.18%</td>
</tr>
<tr>
<td>16</td>
<td>Italy</td>
<td>596</td>
<td>207</td>
<td>803</td>
<td>15,961,983</td>
<td>6,040,189</td>
<td>22,002,172</td>
<td>27.45%</td>
<td>1.27%</td>
</tr>
<tr>
<td>17</td>
<td>India</td>
<td>697</td>
<td>147</td>
<td>844</td>
<td>14,546,706</td>
<td>7,268,449</td>
<td>21,815,155</td>
<td>33.32%</td>
<td>1.26%</td>
</tr>
<tr>
<td>18</td>
<td>Brazil</td>
<td>228</td>
<td>163</td>
<td>391</td>
<td>3,150,493</td>
<td>17,308,798</td>
<td>20,459,291</td>
<td>84.60%</td>
<td>1.18%</td>
</tr>
<tr>
<td>19</td>
<td>Belgium</td>
<td>87</td>
<td>156</td>
<td>243</td>
<td>7,302,545</td>
<td>12,787,196</td>
<td>20,089,741</td>
<td>63.65%</td>
<td>1.16%</td>
</tr>
</tbody>
</table>

Source: UNCTAD secretariat, based on data supplied by Clarksons Research. For a complete listing of nationally owned fleets, see http://stats.unctad.org/fleetownership.
Contribution of Shipping to the Greek Economy:


1. **Contribution to the Greek GDP**
   - Approximately €13 billion Euros are added to the Greek GDP from shipping-related activities (circa 6-7% of GDP)
     - *Direct contribution* (salaries of seafarers, onshore personnel, repairs, bunkers and other supplies etc.)
     - *Indirect contribution* (expenses for supporting services such as payments to ship-brokers, banks, average adjusters, shipping agents, legal services, classification societies etc.)
     - *“Induced” Impact* (i.e. to the entire Greek economy, including impact on households)

2. **Contribution to the Country’s Services Balance inflow**
   - Importing of foreign currency
   - BCG Study*: «The receipts in Services Balance that come from Sea Transport services are estimated at €136 billion for the past decade.»

3. **Creating Jobs**

   BCG Study*: “The Greek shipping cluster employs approximately 165,000 people, [...] (previous studies on the sector have estimated the indirect and induced employment from shipping to contribute to even higher job numbers)”

4. **Investing in other fields of the Greek economy**

   Greek shipping families have several times invested shipping capital in other business sectors of the Greek economy such as Real Estate, Energy, Transportation, Construction, Financial Services, Tourism, Technology and Retail etc.

5. **Contribution to the Greek Society:** Important donations from shipping families take place every year in the fields of culture, education, health, social welfare— and multiple charity contributions are undertaken by the Union of Greek Shipowners and foundations which are established by Greek shipping families.
Is the Greek Shipping Taxation Regime under attack?

→ NO... but...

AUGUST 2015
3rd MOU (Memorandum of Understanding for a three-year ESM programme)
– introduced by Greek law L. 4336/2015 makes reference to the following commitments/milestones of the Greek State:

☐ “[gradual] phasing out special tax treatments of the shipping industry”
☐ “extend the temporary voluntary contribution of the shipping community until 2018”

DECEMBER 2015
Alleging that some provisions of the Greek shipping taxation regime are in breach of EU state aid provisions and, in particular, the conditions set out in the current Community Guidelines on State Aid to Maritime Transport.
→ Union of Greek Shipowners has already issued a press release responding to these allegations
→ It is a responsibility of the official Greek State to respond & defend a well-established regime (well before Greece became an EU member) which is one of the few vital support “life-lines” of the struggling Greek economy!
CONCLUSIONS

- It is a *Myth* that **Greek Shipping** is not taxed.
- The *Reality* is that it is taxed but simply in a **different way**...

- Throughout the past 5 years the “Shipping Cluster” has seen a **drastic increase to its taxation** (through various means: *special levies, contributions, change of pre-existing legislation*)

- The **special treatment** is due primarily to the fact that the income from shipping is derived exclusively from seaborne transportation activities **performed exclusively outside Greece** (without the use or with very little use of Greek domestic infrastructures) / Similar regimes exist (with variations) in other EU countries

- The **substantial contribution** of Shipping to the Greek Economy is **undisputed** and well-founded on **empirical data**.

- It is one of the few sectors of the Greek economy where the **legislation** has generally played a **positive role** in its development without violating staid aid laws and ... it is up to the Greek State to forcefully defend the existing regime.

- Greek Shipping is the only field where our country is gets a “positive” top ranking (on a worldwide basis) and the **relevant legislation** should be **viewed as an example** rather than .... a “species near extinction”!

Timagenis
Law Firm

-16-