The recent Chinese Transportation Tax Law

What does this mean for the Greek Shipping Industry?

China has recently promulgated a new law which imposes tax on profits from freights of inbound routes. The objective of the new tax law titled “Provisional Measures on the Collection of Tax on Non-Resident Taxpayers Engaged in International Transportation Business” (Bulletin of the State Administration of Taxation 2014, No. 37) is to strengthen the tax administration of foreign companies operating international transportation business with China.

What has changed?

Until recently, China had only been taxing international outbound routes with an effective tax rate of 1.25% on the gross revenue. The new rules extend the scope of the tax to inbound routes, and increase the tax rate. As of August 1st, 2014, freights of non-resident shipping companies operating in international routes towards Chinese ports are expected to pay a new tax rate (Enterprise Income Tax – EIT) of 25% on profit. The tax is levied on freights on voyage charters and time charters.

The bilateral agreements Greece and China have in place protect Greek shipping companies or non-Greek shipping companies that are managed by Greek management offices by exempting them from any tax on income by freight transportation in Chinese ports.

How will the new tax be collected?

Currently there are three options for collection, however further clarification is expected:

1. **Tax registration in China:** Non-resident shipping companies will have to register with Chinese tax authorities and comply with local bookkeeping and tax rules. The tax at the rate of 25% will be levied on the declared net profit, or

2. **Tax on deemed profit:** where the enterprises are unable to calculate and report taxable income accurately, they can register and pay tax on a deemed profit, or

The profit rate cannot be less than 15% and the tax rate will be 25%. Therefore, for a freight of $100, it will be deemed that there is a $15 profit, for which a 25% tax will be due (therefore an effective tax rate of 3.75%).

3. **Have tax withheld by an agent:** instead of registering with the Chinese authorities, a company can pay the tax at the rate of 25% on the assumed 15% profit, by having the tax withheld by the customer or other persons designated by the local tax authorities as withholding agents.

Close attention needs to be paid to the completion of necessary documentation in order to secure the exemption.

How does this impact Greek shipping?

The Double Taxation Agreement ("DTT") and the Merchandise Franchise Agreement ("MFA"), which Greece and China have in place, protect Greek shipping companies or non-Greek shipping companies that are managed by Greek management offices by exempting them from any tax on freight transportation income in Chinese ports.. It is important to note that the exemption is not automatic; once the Chinese authorities finalize the filing requirements, close attention shall need to be paid to the completion of necessary documentation in order to secure the exemption.

Additionally, the Greek Government is in the process of setting up further safeguards by amending laws relating to tax residency certificates in order to ensure that the Greek shipping companies will be exempted from this new levy. In this case, the impact of the new law could only be compliance requirements and not actual tax costs. However, it is still unclear if the DTT and the MFA mentioned above and the submission of the necessary residency tax certificate will have the power to secure shipping companies exemption from this tax law. Deloitte is following closely any development and will keep its clients informed on any news. Deloitte's Global Shipping and Ports Leader, George Cambanis, commented, "Provided the proposed amendments to the current Greek law enable management offices to obtain the tax residency certificates which would then exempt Greek shipping companies from this new Chinese tax law the only downside to Greek shipping would be the administrative cost of compliance."

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