I. Tonnage Tax versus Tax on the Net Profits

Taxation is by its nature one of the main elements distorting competition. Whether based on net profits or not, the payable taxes are a factor which escapes, principally, from the pure economic field and falls rather within state policy. It is formed not necessarily by economic considerations; moreover, it does not always have as a purpose the protection of fair competition. In fact, sometimes taxation policy distorts competition on purpose.

Traditionally, most developed states around the world impose as their main business tax a tax calculated on business profits. This tax is part of a more general system of income tax, because it varies according to how much income
an entity acquires. Income tax is called “corporate tax” when it is imposed on companies or similarly treated legal entities. It is considered worldwide as the fairest form of taxation, as it is based, more than any other tax, on the ability of the taxpayer to pay: Once the taxpayer makes profits, he/she pays. If he/she does not make any profits, then no tax is due. In business taxation, an income tax calculated in a fair way, based on the commercial notion of profit, is widely accepted as the best instrument to prevent distortion of competition.

In the taxation of the shipping industry, however, things work differently. More and more countries worldwide are abolishing the taxation of net income deriving from such activity and adopting instead the so-called tonnage tax system. As its name implies, the tonnage tax is not calculated according to the net profit of the shipping enterprise, but according to the tonnage of each ship. Once this tax is paid, no other tax is imposed on the net income the shipowner acquires from the shipping business.

The tonnage tax is generally considered as a business-friendly tax. It characterises maritime legal orders which try to be competitive on an international level. The tonnage tax system enjoys this positive view, despite the fact that the taxpayer has to pay tax even if he/she does not make any profit out of his/her shipping business. The reasons for this positive view are the following:

1. The simplicity of the tax. Tonnage tax requires no expertise, no documentation; no puzzling on the interpretation of complicated tax provisions, and thus reduces significantly the cost of its management for shipping business.

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2 In the Greek Constitution, the ability-to-pay principle is part of the principle of equal treatment, laid down in Art. 4 (1) and (5) of the Greek Constitution. Cf. Finokaliotis K., Forologiko Dikaio [Tax Law], 3rd ed., Thessaloniki, 2005, p. 137 (in Greek).
4 Some legal orders deviate from the pure tonnage tax system and impose a tonnage tax in parallel to a tax system based on net profits. Cf. below in this chapter. This tonnage tax system normally has to replace for all taxpayers or offer the option to replace income taxation on the net profits with a pure tonnage tax system.
5 Cf. Moratis G., I forologia tis naftilias kai synafon drastiriotiton [The taxation of maritime and other and related activity] [2003] ΔΕΕ 1183 et seq (in Greek). Moratis reports that the first introduction of the tonnage tax system in Greece in 1939 had not been done in order to improve the competitiveness of the Greek flag, but in order to facilitate the collection of taxes. It was for the first time in 1951, with the passing of the new Law no. 1880/1951, that the Greek authorities characterised the tonnage tax as a tax aiming to bring ships under the Greek flag. About the history of tonnage in Greece, cf. infra, subchapter II.2.a).