

Greece and Maritime Community agree to new voluntary tax contribution; Greece amends other maritime-related provisions

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Executive summary

Greece, pursuant to the provisions of articles 49, 53, 54 and 56 of L.4607/2019 (published in *Government Gazette A'65 /24-4-2019*): (i) ratified the New Mutual Agreement (the Agreement) between the Greek State and the Maritime Community; (ii) redefined the legislative framework for the tax contribution to be paid by the chartering shipping companies defined under article 25 of L.25/75, as well as for the 10% taxation on profits distributed by these chartering companies maintaining an office in Greece; and (iii) amended the Value Added Tax (VAT) treatment of short term leases of professional pleasure vessels.

Detailed discussion

New voluntary tax contribution of 10% from the Maritime Community

Under the Agreement dated 27 February 2019 between the Greek State and the Maritime Community, which was ratified by Article 56 of L.4607/2019, the members of the Maritime Community voluntarily agreed to financially assist the Hellenic Republic through a voluntary contribution of a 10% fixed rate on the amounts imported into Greece in any currency arising from dividend income of the ultimate shareholders or partners or actual beneficiaries of Greek and

foreign-flagged ship owning companies. The Agreement has been ratified and is in force in continuance of the first Mutual Agreement dated 18 July 2013 between the Greek State and the Maritime Community, which was in force for 2014 through 2018.

- ▶ As a basic condition for this voluntary contribution, the foreign-flagged ships should be managed by a shipping management company established in Greece under the provisions of article 25 of L.27/75.
- ▶ The contractual duration of the New Voluntary Tax Contribution is indefinite at this time.
- ▶ The payment of the New Voluntary Tax Contribution, covers, for the worldwide income from dividends of the ship-owning companies, any other tax liability of individuals, Greek tax residents, from any tax, levy, charge, or any other tax charge, as well as from the imposition of the special solidarity tax.
- ▶ The New Voluntary Tax Contribution is determined each year at the time of the fulfillment of the individuals' Greek tax residents' tax obligations, who are beneficiaries of shipping dividends, with the submission of the income tax return. The New Voluntary Tax Contribution is first undertaken for income from dividends received in 2018.
- ▶ Any eligible individual who is a member of the Maritime Community, by signing the Agreement, becomes a direct counterparty and has a direct obligation and responsibility towards the Greek State for the fulfillment of its own independent liability under the New Voluntary Tax Contribution.
- ▶ If the total annual amount of the New Voluntary Tax Contribution, examined every two years by a three-member committee composed of representatives of the Ministry of Finance, the Union of Greek Shipowners and the IAPR (Independent Authority of Public Revenue), is less than €40m during the course of a year, there is an obligation for the legal entity members of the Maritime Community to cover the deficit. Such obligation should be met following the submission of tonnage tax return of the following year of every two-year period. If there is a deficit of the New Voluntary Tax Contribution in one year of that two-year period, this is offset against any surplus during this two-year period.
- ▶ Apart from the New Voluntary Tax Contribution, no other right provided for by L.27/1975, the Article 107 of the Constitutional Law and the general maritime legislative framework is affected by the Agreement.

Taxation of chartering shipping companies of article 25 of L.27/1975

By the amendment of articles 43 of L.4111/2013 and 25 of L.27/1975, through the provisions of articles 53 and 54, respectively, of L. 4607/2019, the scope of the tax contribution imposed on the chartering shipping companies referred to in article 25 of L.27/1975 is redefined.

- ▶ The tax contribution applicable to foreign exchange imported by chartering shipping companies during 2012 - 2019, will apply to the total foreign exchange imported by these enterprises from 2020 onwards.
- ▶ In addition, the tax contribution extends, apart from the foreign residents, also to the domestic chartering shipping companies, established pursuant to article 25 of L.27/1975 and will be imposed in addition to the annual amount of the total imported amount in euros instead of only on the annual amount of the total imported and convertible in euros foreign exchange.

The scale for the calculation of the tax contribution (in US dollars) for the total imported and converted in euros exchange and the imported amount in euros in the years 2018 and onwards is defined as follows:

Annual total imported and converted to € foreign exchange and imported amount in € (in \$)	Contribution Rate (%)	Contribution (in \$)	Progressive annual total of imported and converted into € foreign exchange and imported amount in €	Progressive annual total of tax contribution (in \$)
200,000	7	14,000	200,000	14,000
200,000	6	12,000	400,000	26,000
In excess of 400,000	5			

- ▶ If the amount of the annual contribution calculated based on this scale for the total amount imported and converted in euros foreign exchange and the total imported amount in euros during the two-year period 2019-2020 is less than \$5,000, a minimum contribution of \$5,000 annually is assessed. The tax contribution amount assessed as the minimum amount for the total imported exchange in the years 2021 and onwards is equal to \$6,000 annually.
- ▶ The domestic and foreign companies that have established an office or branch under article 25 of L.27/1975 and are engaged in the management or operation of Greek or foreign-flagged ships alongside other underlying operations as defined by their installation permit, continue not to be subject to the tax contribution.
- ▶ For the non-imposition of the tax contribution on the companies referred to in article 25 of L.27/1975 which, apart from the principal activity of chartering and other maritime activities, declare, with their installation permit, the management or exploitation of ships as a secondary activity as well, proof of the effective exercise of the management or exploitation of ships is required within the five-year period of validity of their permit. Otherwise, the tax contribution is imposed on the imported exchange in the next year after the lapse of the five-year period. The above applies to companies whose five-year period of their installation permit expires in 2018 and, if tax contribution is imposed, this is calculated based on the imported exchange in 2019 and is paid in 2020.
- ▶ The responsible companies shall submit the tax contribution return for the imported foreign exchange in the year 2019 and onwards by the last business day of March, annually. Upon submission, the tax contribution is immediately assessed. Payment of the tax contribution is now set at two equal installments by the last business day of April and September of the reporting year.
- ▶ The imposition of the tax contribution at a rate of 10% is extended, except for foreign chartering shipping companies, to dividends received by an individual Greek tax resident from domestic chartering shipping companies established pursuant to article 25 of L.27/1975, which are paid or credited from 2019 onwards.
- ▶ In addition, a 10% rate of tax contribution is imposed on distributed profits in the form of a bonus by foreign and domestic chartering shipping companies, as well as to their employees. Specifically, the 10% taxation on distributed profits in the form of a bonus, is onwards imposed, apart from the bonuses to the members of the Board of Directors, or the directors and officers, including bonuses to the staff/employees of the chartering shipping companies from 2019 onwards.
- ▶ Taxation of 10% is also provided for distributed profits in the form of bonuses to the members of the Board of Directors, or to the directors and officers, as well as to their staff/employees of the shipping management companies established in Greece in accordance with article 25 of L.27/1975.
- ▶ The payment of the 10% tax contribution, is exhaustive for any other tax liability of the beneficiary, on dividends or distributed profits in the form of a bonus, which are received by a Greek tax resident individual and are paid or credited from fiscal year 2019, including the special solidarity tax referred to in article 43A of L.4172/2013.
- ▶ In the case of failure by the liable person to submit the contribution tax return or in the case of a late or inaccurate submission, the surcharges and fines of L.2523/1997 (A '179) for tax liabilities up to 31 December 2013, as well as the interest and the fines of L.4174/2013 for tax obligations from 1 January 2014 and onwards are imposed.
- ▶ A decision issued by the Governor of the IAPR, will determine: (i) the form and the content of the tax contribution return; (ii) the procedure for its submission; (iii) the authorities responsible for receiving the tax returns and for the assessment of the tax; and (iv) the required co-submitted supporting documents and any other necessary issues.
- ▶ These new provisions do not regulate the social security treatment associated with the profits distribution to the members of the Board of Directors, or to directors and officers, as well as to the staff/employees of chartering shipping companies and shipping management companies or enterprises.
- ▶ The exemption from any form of income tax, provided for the profits distributed to the partners of domestic shipping limited liability companies, which are subject to or have already been subject to the provisions of article 25 of L.27/1975, shall be abolished from 2020 onwards.

Amendments in VAT on short-term leases of professional pleasure vessels

- ▶ Article 14 of the Greek VAT Code (L.2859/2000) was amended through the new provisions, and it is now provided, under (b) of paragraph 15 of Article 14, that in the case of short-term (less than 90 days) leases of professional pleasure vessels (subject or not to VAT) within Greece, no VAT is due in Greece insofar those vessels are used outside the European Union, notably in international waters or in third country waters.

As stated in the explanatory memorandum of L.4607/2019, in response to the infringement found by the European Commission against Greece, for the rationalization of the tax treatment of leasing of pleasure vessels and for their uniform

tax treatment, whether they operate passenger transport services or transport lease services, the criterion of use and exploitation in the short-term leases of pleasure vessels is adopted, so as to be subject to the Greek VAT, provided that they are used in Greek territory waters. In particular, this is an amendment related to the European Commission's 2017/2143 infringement against Greece, according to which the existing flat-rate VAT regime in the chartering of professional pleasure vessels, regulated by the relevant circular POL.1156/1997 and on the basis of which no VAT is imposed on the total price charged for said chartering, but a part thereof, depending on the category to which the vessel belongs, is contrary to the provisions of the VAT Directive 2006/112/EC.

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