

DOUBLE TAXATION: SHIPPING PROFITS

*Exchange of notes at Washington January 15, February 8, and
March 28, 1941*

Entered into force March 28, 1941; operative from January 1, 1936

55 Stat. 1363; Executive Agreement Series 221

The Panamanian Chargé d'Affaires ad interim to the Secretary of State

[TRANSLATION]

EMBASSY OF PANAMA
WASHINGTON

Number D-14

JANUARY 15, 1941

MR. SECRETARY:

I have the honor to inform Your Excellency that my Government, upon the basis of the principle of reciprocity, is very much interested in having the Treasury Department of the United States of America declare formally and officially that the revenues of shipping companies incorporated under Panamanian laws are exempt from income taxes.

I take pleasure in forwarding herewith to Your Excellency the documents, duly authenticated, which contain the legal provisions of the Republic of Panama by which shipping companies incorporated under the laws of the United States are exempted from any tax. I should be very grateful if Your Excellency—provided you deem fit—would transmit the above-mentioned provisions to the Treasury Department in order to obtain the declaration desired by my Government. The documents which are being forwarded are the following:

- a) officially issued booklet containing all the laws and decrees which show that the Republic of Panama does not impose taxes upon the shipping industry of the United States;
- b) copy of Executive Resolution No. 33-bis, of 1936, and
- c) certificate of the Secretary of State in the Office of Hacienda and Treasury, in which it is expressly stated that "the merchant ships of the United States of America or of citizens of that country" are exempt from the income tax.

The legal provisions to be found in the above-mentioned documents may be summarized as follows:

1) A tax is imposed by the Republic of Panama upon the net earnings of all persons in accordance with the "Ley del Fondo Obrero y del Agricultor", law 49 of 1934.

2) By Executive Resolution No. 33-bis, of March 2, 1936, the following was decreed:

"Revenues which are derived from the operations of maritime commerce of merchant ships belonging to corporations organized in the United States of America or to citizens of that or any other country who reside either in Panama or abroad, *are not subject to* the tax of the "Fondo del Obrero y del Agricultor" created by law 49 of 1934, even though the transportation contracts may be drawn in Panama".

3) The National Assembly of the Republic of Panama enacted in 1938 a new tax law known as law no. 62 of 1938. This law has not been put into force, due to its having been suspended by Decree No. 41 of April 5, 1939, and by Decree No. 146-bis of December 30, 1939.

In view, therefore, of all that has been cited above, my Government would be very much pleased if Your Excellency's Government would give assurance that, subject to changes of the law in the future, the citizens of the Republic of Panama and firms incorporated under Panamanian laws have been since 1936 and will henceforth be exempt from the tax on profits derived from maritime operations, as provided in sections 211 (b) and 231 (d) of the Internal Revenue Code of the United States of America.¹

Please accept, Excellency, my thanks in advance for the attention which you may see fit to give to this request, and the assurances of my highest and most distinguished consideration.

J. H. EHRMAN
Chargé d'Affaires a.i.

His Excellency CORDELL HULL,
*Secretary of State of the United States,
Washington.*

The Secretary of State to the Panamanian Ambassador

DEPARTMENT OF STATE
WASHINGTON
February 8, 1941

EXCELLENCY:

I have the honor to acknowledge the receipt of your Embassy's note of January 15, 1941 (Number D-14) concerning the desire of your Gov-

¹ 53 Stat. 76 and 78.

ernment that the revenues of shipping companies incorporated under Panamanian laws be declared exempt from income taxes.

A copy of the note and the authenticated document transmitted therewith have been forwarded to the Treasury Department and further response will be made to the note at a later date.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

BRECKINRIDGE LONG

His Excellency

Señor Doctor DON CARLOS N. BRIN,
Ambassador of Panama.

The Secretary of State to the Panamanian Ambassador

DEPARTMENT OF STATE

WASHINGTON

March 28, 1941

EXCELLENCY:

I have the honor to refer to your Embassy's note of January 15, 1941 (Number D-14) concerning the desire of your Government that the revenues of shipping companies incorporated under Panamanian laws be declared exempt from income taxes. Reference is also made to the note of the Department of State of February 8 on the subject.

A letter has been received from the Treasury Department in which reference is made to the provisions of Executive Resolution No. 33-bis of March 2, 1936 contained in the authenticated documents enclosed with the Embassy's note relating to the exemption of the revenues derived from the operations of merchant ships from the tax imposed by Panamanian Law 49 of 1934. It is stated in the letter that these provisions "satisfy the equivalent exemption requirements of sections 212(b) and 231(d) of the Internal Revenue Code and the corresponding sections of the Revenue Act of 1938² and the Revenue Act of 1936³". It is added that

"Consequently, nonresident alien individuals (including citizens of the Republic of Panama) and foreign corporations (including corporations organized under Panamanian laws) are exempt from Federal income tax with respect to their income which consists exclusively of earnings derived from the operation of a ship or ships documented under the laws of Panama, for the years 1936 to 1940, inclusive. This ruling is equally applicable to subsequent years, as long as there remain in force and effect the provisions

² 52 Stat. 447.

³ 49 Stat. 1648.

of the Executive Resolution No. 33-bis of March 2, 1936, relative to the exemption from income tax of the revenues derived from the operations of merchant ships."

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

BRECKINRIDGE LONG

His Excellency

Señor Dr. DON CARLOS N. BRIN,

Ambassador of Panama.