

E-0337





所得 税 関 係 事 項 (回 答)

日本郵船會社作成

一、提供船關係

一、提供船ト備船契約締結ノ経緯
 提供船ハ米國政府ト我社トノ隨意契約ニ基クモノニ非ズシテ
 日米政府間ノ船舶供給ニ關スル取極ニ基クモノナリ。即チ北米
 合衆國參戰後同國ハ極度ニ船舶ノ欠乏ニ苦シミ大正七年二月頃
 以降我國ニ對シ約六十萬噸(重量噸)ノ船腹調達供給ヲ要請スル所
 ナリ、我國政府ハ聯合興國ノ一員トシテ對敵共同策應ノ主旨ニ基
 キ其ノ要請ヲ容レ約十五萬噸(重量噸)ノ船腹ヲ民間諸會社ニ命シ
 在本邦米國大使館ノ手ヲ経テ米國船院ト定期傭船契約ヲナス
 形式ノ許ニ同國政府ニ提供セル次第ニシテ這ハ專ラ米國戰時ノ
 急需ニ應ジタルモノニシテ、當時米國政府ヨリ本邦政府ニ對シ本

二、

件ニ付キ深原ナル謝意ヲ表シテ云フ。當時我社ニテ提供
 セル船舶ハ八隻重量噸五九、五八、五噸ナリシガ之レ全ク本邦政府
 ノ徵用權ノ發効ニ基キ御用船トシテ調達セシメラレタルモノナ
 リ。從テ之ヲ我社本來ノ營業トシテ爲セル事ナル *Time Charter*ノ
 如ク解スルナラバ其誤謬ヤ甚シト云フベシ。右ノ事實ハ時ノ進
 信大臣ヨリ提供各船長ニ與ヘラレタル訓示中「今回ノ船舶提供ハ
 帝國ノ聯合興國ニ對スル共同策應ノ必要ニ基クモノニシテ、本船
 ハ帝國政府ノ御用船トシテ米國政府ノ指定スル輸送任務ニ服ス
 ルモノナリト明カニ説示セラレタル所ニヨルモ(添付書類第一、大
 正七年四月通信大臣訓示譯文参照)大正七年(一九一八年)四月二日
 付通信大臣發郵船會社宛戰航第四四九號船舶使用命令書第一項
 ニ於テ「其會社ハ本船ヲ亞米利加合衆國ニ引渡シ其ノ運用ニ關ス
 ル一切ノ事項ニ付政府ノ指揮ニ從ヒ同國政府ト協定スベシトア

ルニヨルモ亦提供船傭船契約書ノ冒頭「..... in pursuance of the arrangements indicated in the memorandum exchanged by the Mexican Embassy at Tokyo with the Imperial Japanese Department for Foreign Affairs,.....」文言ニヨルモ明瞭ナリ。

ニ提供船傭船契約ハ所謂運送契約(Contract of carriage)ナルカ
賃貸借契約(Contract of rental)ナルカ

米國大藏省ガ提供船傭船契約ヲ以テ(Contract of carriage)ト
ナス論據ハ判然セザルガ別紙紐有來書ニヨレバ提供船傭船契約
ヲ以テ我社ガ運送人トシテ米國船院ト賃客運送ノ請員ヲナシ
タルモノトシ傭船料ヲ以テ income from freight and passenger traffic
originating within No. 8. トナシ從テ該傭船料ハ課税ノ目的ヲナス
モノナリト論斷シ居ルカ如シ然レ共此特種ノ定期傭船契約(Single
charter)ナルモノハ普通ノ傭船契約ト異リ一定期間特種條件ノ下

4. = 船傭者傭船者ニ貸切り提供セル一種ノ賃貸借契約ニシテ其對
價ハ所謂傭船料ニ非ズシテ一種ノ賃貸使用料ト解スベキ筋合ノ
モノナリ。即チ我社 *accountant* ノ言フガ如ク我社トシテハ船傭
ノ利用ヲ米國船院ニ提供シテ其對價ヲ得タルモノナリ。而シ
テ船傭ノ利用ハ當然運送行為ニ生ズルモノ其運送行為ハ船傭利用
權ヲ得タル傭船者ノ利用行為ニ原因スルモノト見ルヲ至當トス
ベク事實社船傭船者タル米國船院ハ提供船ノ利用行為トシテ
他ニ轉貸シ又ハ他ト運送契約ヲ為セルガ如シ。

此問題ヲ考究スルニ當リ特ニ注意ヲ喚起セントスルハ抑々提
供船ナルモノハ其本質ニ於テ我社ハ帝國政府ノ命ニヨリ其御用
船トシテ帝國政府ニ調達提供シ帝國政府ハ日米兩國間ノ外交上
ノ取極ニ依ツテ之ヲ米國政府ニ提供セルモノナルコト是ナリ。
此ノ如ク北米合衆國ノ主トシテ軍事行動ニ策應セル提供船ヲ

課税ノ対象トシテ取扱ハントスルガ如キハ其根本觀念ニ於テ之ナル過誤ヲ含ムモノナリ。

三、提供船ノ備船契約ハ隨意契約ニ非ラザリシコトヲ證明シ得ル他ノ證據

提供船ハ國家権力ノ發動ニ基因スル備船契約ナルコトハ(一)所載ノ通りナルガ尚之ヲ支持シ得ル事實ナリ、他ナシ提供船備船料率ト當時ノ定期備船市場率トノ間ニ格段ノ相違アルコト是ナリ。

我社提供船ノ備船料ハ聯合國ノ協定セル國際備船料率即四。六六(當時ノ換算率ハ $\frac{1}{100}$ 乃至 $\frac{1}{100}$ ニシテ約一八月四七乃至一八月九ニニ當ル)ニシテ之ヲ邦貨ニ換算ノ上東京ニ於テ支拂ヲ受ケタルモノナルガ、當時(一九一八年)我國ニ於ケル同型船ノ長期市場率ハ別紙ノ通り最低三十一円最高四十五円ナリキ。即チ提供船料率ハ當時ノ最高備船市場率ノ半額ニモ及バズ最低率ニ比スルモ

尚約十餘円低位ニアリ。危険率多ク加之格段ニ割安ナル備船料ニテ多數ノ船舶ヲ提供スルガ如キハ一商事會社ノ為スベキニアラザル所以ヲ知ルベシ。今假ニ我社提供船ヲ内地ニテ貸船シタリトセンカ社船ハ社外船ニ比シ *Conditions* 佳良ナル故當時ノ最高備船料ニテ備船取極得ヘシト思惟セラル、モ茲ニ右最高最低トノ平均三十八円ヲトリ我社が取得スル備船料ト提供船備船料トヲ比較スレバ次表計算ノ如ク實ニ一、二一六萬二十餘円ノ大差アリ。

船名	重量噸數	備船期間	船院ヨリ收受セシ備船料	噸三八月トシテ計算セル場合
彼南丸	八、三二五	自七五年五月三十日 至八五年五月二日	一、七一七、六二四・八八	三、八三八、三八〇・〇〇
錫蘭丸	六、四四〇	自七五年六月二十五日 至八五年六月十六日	九、九四一、九七七・七二	二、〇八〇、一三〇・〇〇
阿波丸	八、〇七〇	自七五年六月二十二日 至八五年六月二十五日	一、八一五、六七七・七二	三、七一〇、五八六・〇〇
吉林丸	五、五三〇	自七五年五月二十八日 至八五年三月十日	九、六四七、七二六・三六	一、九八二、三二〇・六六

船名	噸數	自	至	噸數	噸數
土佐丸	七、六八〇	自七	至八	一、七一八、六七一・四三	三、五〇二、〇八〇・〇〇
蘭貢丸	八、三五〇	自七	至八	一、三九九、四九一・四四	六、八九八、〇〇六・六六
鳥取丸	九、六六〇	自七	至八	一、九九六、八二四・九三	四、〇七四、五八八・〇〇
仁川丸	五、五三〇	自七	至七	六四七、三二四・〇九	一、三三〇、八八六・六六
計	五九、五八五	自七	至七	一、二五四、五三八・五七	二、三四一、六九七・九八

※十一月二日より二月十日迄
入渠修繕期間ヲ除ク

差引 一、一六二、四二九・四一

我社ハ米國政府ノ旨メ延イテハ聯合國ノ共同勳作助成ノ為メ如斯甚大ノ犠牲ヲ拂ヒ居リ當時米國政府ハ深厚ナル謝意ヲ表セシニ拘ラズ今日ニ於テ其噸船料ニ對シ課税セントスルハ寔ニ不條理不誠意極マルモノナリ。

-7-

四、提供船ニ對スル噸船契約ハ他社ト協同シテ締結セラレタルモノニ非ズ、我社トシテハ我社ニ對スル別個ノ契約トシテ締結シタルモノナリ(添付書類第四噸船契約書参照)

-8-

五、噸船期間中各船ノ行動

提供船發着表(添付書類第八)及提供船各船航海撮要日誌(添付書類第七)参照

六、提供船ノ行動ニ關スル實際上ノ指揮者ハ誰カ(追加書類第四項)噸船契約書ニモトバ屬船者所チ米國船舶院ガ利用權獲得者トシテ第一次ノ指揮者タルニト明瞭ニシテ噸船契約書ニ於テモ……

as the charters or their agents shall direct, on the following conditions

……ト規定シ居リ且ツ其ノ第九條及十條ニハ更ニ左記ノ通り明示シ居レリ。但提供船ハ右述ノ如ク他ニ轉貸セラレタル模様ニ付實際上ノ指揮者ハ明瞭ナラズ、而シテ *super cargo* 系船ノ場合ハ多クハ *military officer* ナルガ如シ此ノ場合實際上ノ指圖ハ *Commy* ナリト着ルベシ。

That the charters shall have permission to appoint a super-

cargo, who shall accompany the steamer and see that the papers are presented with the utmost dispatch..... That the master shall be furnished from time to time with all requisite instructions and sailing directions;.....

七、備船契約が交渉セラレシ際所得税ノ支拂ニ関シ何等カノ意思表示アリシヤ(追加覚書第二頁第一〇項)

備船契約書、船舶使用命令書等ニ何等右ニ関スル規定ナク重役會報告書其他関係書類ニ付取調べタルモ備船契約締結ニ當リ此点ニ関シ意思表示ヲ爲セルモノ見當ラズ。

-9- 備船契約書ノ形式ハ米國船船院ト我社トノ契約トナリ居ルモ既ニ述ベタルガ如ク其本質ニ於テハ我社トシテハ政府ノ命ニ基キ帝國政府ニ對シ米國政府ハ船腹提供ノ目的ヲ以テ御用船トシテ調達提供シ帝國政府ハ日米兩國間ノ外交上ノ取極メニヨリ之

-10-

ヲ米國政府ニ提供シタルモノナルガ故ニ當時此等提供船ノ特種賃貸料ノ如キハ課税ノ目的ヲ得ルモノトハ解セラレシ筈ナク、從テ當時所得税ニ関シ何等ノ意思表示ナカリシコトハ寧ロ當然ノ歸結ト認メラル。

八、所得税ノ支拂ニ関シ何等カ其後照會セラレタリヤ、然リトセバ其書面寫添付ノコト(追加覚書第二頁第十一項)一切不明

九、合衆國內ノ貴社支店又ハ其社員が提供船ニ関シ何等カ *reference* セシヤ、然リトセバ如何ナル *reference* ナリシヤ詳細記載セラレ度(追加覚書第二頁第十二項)

從供船ノ行動ニ関スル指揮者ハ上述ノ通り備船者タル米國船院又ハ同院ヨリ轉貸ヲ受ケタル者ニシテ本船ノ港費、噸税、前役費、水先料ハ固ヨリ燃料炭、鑑水及飲料水共備船者ニ於テ負擔供給

シ居リ且ツ傭船者ハ其費用ニテ本船ノ代理店ヲ *Charterer* スルニト
 ニナリ居ル為メ(傭船契約書第ニ條参照)船主ハ本船運用上別ニ船
 主代理店設置ノ必要ナシ、或社ハ當時沙市及紐育ニ店舗ヲ有シ居
 タルモ右店舗、存在ト提供船トハ何等ノ關係ナク從テ支店又ハ
 其在動員ガ提供船ノ為ニ其傭船中特ニ *Charterer* ヲ提供スル要ナク
 又之ヲ提供シタリトスル記録ナシ。

十、船型、噸數、速力等ニ於テ貴社提供船ト相似船ノ當時ニ於ケル期
 間傭船ノ市場率ハ何程ナリシヤ、(a)一九一八年度ニ於テハ如何、

(b)一九一九年度ニ於テハ如何、(c)一九二〇年度ニ於テハ如何、

(a) 一九一八年	最低	重量一噸ニ付	三十一円
	最高		四十五円
(b) 一九一九年	最低		八円五十銭
	最高		三十六円

-12-

(c) 一九二〇年

最低	重量一噸ニ付	五円
最高		九円五十銭

(添付書類第九、米船傭船市場率表参照)

十、提供船ガ如何ナル任務ニ使用サレタルカ、書類
 提供船傭船契約ハ船舶ノ利用ヲ米國船舶院ニ提供セルモノナ
 ル事前述、如シ但シ船舶院側ノ利用行為ノ目的ニ就テハ貨客
 輸送ニ在ルコトヲ豫想シ居レリ。而シテ船舶院側ガ實際如何ニ
 之ヲ使用セルカハ主トシテ軍用智利請名輸送ト米國陸軍運送船
 (*Army Transport Service*)トシテ歐洲各埠需品ノ輸送ニ使用セラレタ
 ルガ阿波丸、如キハ引提軍隊ノ輸送ヲモ爲シ居レリ(添付書類第
 七、提供船各船航海撮要日誌参照)

十二、傭船料ノ内容、即チ船舶院ヨリ交付サレタル金額ハ傭船料率ニ
 基ク計算ヨリ 25% 超過セリ、之ハ如何ナルモノカ其ノ説明ヲ附セリ

レ度(電書第百第三項)

提供船ハ備船料ノ他帝國政府ヨリ保険料トシテ一噸ニ付航路ニヨリ五再以内ノ補助ヲ受ケタリ實額、点ハ此金額ニ該當スルモ、如ク思ハル。

提供船ニ付テハ米國政府ニ於テ船齡十年未滿ノ船舶ニハ重量一噸ニ付二百弗十年以上ノ船舶ニハ同百七十五弗ノ割合ニテ戰時保險ヲ附スルコトニナリ居タルモノニシテ斯ク米國政府が戰時保險ヲ附シ居ルニ拘帝國政府が噸五再以内ノ保険料補助ヲナシタルハ米國政府ノ右賠償價格ハ本邦當時ノ船價ニ比シ遙ニ低位ニアリタル為メ之ヲ補填スル為ナリシモノナリ、當時ノ吾社提供船ノ船價左ノ如シ。

(大正七年九月三十日現在市價)

蘭貢丸 重量噸當リ 七〇。〇 噸 五、八四五。〇。〇 噸

錫蘭丸	重量噸當リ	六五。〇 噸	四一八六。〇。〇 噸
彼南丸	〃	七五。〇 噸	六二四三。七五。〇 噸
阿波丸	〃	五九。〇 噸	四七六一。三〇。〇 噸
島取丸	〃	七七。五 噸	七四七八。七五。〇 噸
吉祿丸	〃	五三。五 噸	二九五八。五五。〇 噸
土佐丸	〃	四二。五 噸	三二六四。〇。〇 噸

因ニ備船料以外ニ備船者ヨリ船主ニ支拂フベキ性質ノ費目ハ(1)備船契約書(2)大正七年四月二十日付戰時船舶管理局長官發戰航第四四〇號船舶使用命令ニ關スル件ニ夫々記載アリ、即チ左ノ通り。

(1) 備船契約書ニヨルモノ

(2) 契約書第ニ條第ニ項 *Damage* 及 *shifting barrels*、内船主が本船引渡前ニ所有シ居タルモノニ對スル代價

(a) 同第三條ニ基ク燃料炭、受渡差額(若シ受取勘定ナリシナラバ)

(c) 同第九條ニ基ク水先金、Salvy Expenses、ステバ、Premium、税、開支其他ノ給食代金

(d) 同第十七條ニ因ル燃料費

(e) 同第十九條ニ因ル船員ノ Overtime allowance

(四) 戦航第四四〇號ニヨルモ

(a) 右書勅諭付様式所載第一項ニヨル無線電信設備工事費

(b) 右同第三項ニヨル損害ノ填補

(c) 右同第四項傷害又ハ死亡ニ對スル損害填補

(d) 右同第五項ニヨル乗組員ニ對スル特別給與増額ノ若干部

分員擔

(e) 右同第十一項ニ基キ模倣替工事ハ原状ニ復旧ノ上返還ス

-14-

ベキモノヲ復旧セバシテ其ノ代リニ復旧ニ要スル費用ヲ
船主ニ支拂ヒタルガ如キ場合ニ想像シ得ベシ

(f) 右同第十二項及第十三項ノ損害賠償費用等

十三提供船ノ燃料石炭調度品受入ニ實際ニ關與セル者

The Chief Engineer attended to receiving advanced cash which were supplied by the United States Shipping Board on their account.

The Purser, the Chief Engineer, the Chief Officer, the Vector or the Wireless Operator attended to procuring on the owners' account provisions and general ship's stores according to the nature of the respective supplies required by them.

十
QUESTION:

B. Who actually attended to arrangements for docking, berthing, loading, unloading, and the making of repairs, if necessary?

ANSWERS:

A. Docking: (Assuming the word docking to mean dry-docking)

No vessel was dry-docked during its chartered period, with the only exception of the "Ceylon Maru," which was dry-docked on Jan. 3, 1919, at Bordeaux, France, in the course of the repairing works by order of the U. S. Army Transport Service, by which she was being employed prior to the sea casualty necessitating the said repairs.

(For details, refer to the Abstract Log of the "Ceylon Maru.")

B. Making of Repairs:

For the most part, the repairs (or similar kinds of work) were effected by order either of the U. S. Shipping Board or the U. S. Army Transport Service, under which the ship was placed for employment.

Besides the above, however, a few cases may be noted in which

another authorities or else had some concern with the repairs, &c., e. g.,

"Awa Maru" was supplied with additional life-boats by the U. S. Navy for carrying, by its order, naval officers and crew from Gibraltar back to Newport News, and those life-boats were returned to the authorities on completion of the required transportation.

"Tosa Maru": At Yokohama, minor repairs were effected on May 30 to June 1, 1919, being attended by the Owners' resident superintendent; at Kobe, cargo holds were fumigated and the ship was disarmed before re-delivery on June 20, 1919, to the Owners and disembarkation of the supercargo, being attended by the Owners' resident superintendent.

On the part of the ship, as a rule, Chief Officer attended to the making of repairs of Deck Dept. and Chief Engineer to the making of repairs of Engine Dept., both under the general supervision of the ship's Master.

(For details of repairs, &c., refer to the Abstract Log of each ship.)

其五ノ点ニ関シ如何ナル命令又ハ指圖カ爲サレタリヤ

(a) 提供船ノ管理配船ニ付貴社ニ於テ如何ナル命令又ハ指圖ヲ為セシヤ

會社トシテ命令又ハ指圖ヲ為シタルコトナシ

(b) 本備船契約書ニ基キ貴國政府ハ貴社ニ對シ又ハ貴社船長ニ對シ如何ナル命令又ハ指圖ヲ為セシヤ

(添付書類第一通信大臣訓示参照)

(c) 米國船舶隱ハ貴社又ハ貴社船長ニ對シ如何ナル命令又ハ指圖ヲ為セシヤ

提供船各船航海撮要日誌参照アリ度

(d) 荷物上乗人ハ貴社又ハ貴社船長ニ對シ如何ナル命令又ハ指圖ヲ為シタルヤ

提供船各船航海撮要日誌参照

十六、荷物上乗人ハ實際提供船ニ乗船セルヤ

乗船セリ(提供船各船航海撮要日誌参照)

十七、貴社株主ニ對スル定期的報告ニ於テ備船契約ニ関シ何等カノ

Statement 發表セラレシヤ

發表セラレタリ(添付書類第六提供船ニ関スル營業報告書寫参照)

十八、貴社取締役會ニ於テ備船契約ニ関シ何等カノ決定ヲ記録シタルモノアリヤ

記録ヨリ(添付書類第五提供船ニ關スル取締役會報告書寫参照)

十九、備船契約ニ基キ支拂ハレタル料金ハ貴社帳簿上如何ニ處理セラレタリヤ

(各線ニ割當テラレタリヤ一括記録セラレタリヤ)

添付書類第十一 Schedule 2, Charter money received from 1911.

to 1924.

3, Charter money received for ships chartered to W. S. Shipping Board.

参照アリクシ

二十米國船院へノ提供船ハ傭船契約書ニヨリ航海中護送セラレ
タリヤ、或ハ又護送船トシテ使用セラレタリヤ

護送セラレタル場合ト然ラサル場合トアリ、護送船トシテ使
用セラレタル場合ハナキ様ナリ。

提供船各船航海撮要日誌参照

二、補助金関係

21- 一、我が社が受ケタル補助金ハ使用船建造ニ對スル報償ナリヤ(覽書

22-

第四頁第一節

我が社が收受セル問題ノ補助金ハ會計士が指摘シ居ル如ク一九
一〇年(明治四十三年)一月一日ヨリ實施サレタル遠洋航路補助法
ニ基キ取得シタルモノナルガ、本法及本法以前ノ航海奨励法(明治
二十九年十月一日ヨリ向十八年間)並ニ航海奨励法ノ下ニ施行サ
レタル特定航路助成ハ何レモ本文末記述ノ通り一定資格ヲ有ス
ル船舶ガ一定ノ航海(航海奨励法)又ハ一定ノ航路(遠洋航路補助法
特定航路助成)ノ経営ヲ為スコトヲ條件トシテ補助金ヲ下附サル、
モノニシテ單ニ規定ニ合格セル新船ノ建造又ハ取得ノ對償トシ
テ支給サレタルモノニアラザルモ遠洋航路補助法ノ精神ハ一定
規格船ヲ一定航路ニ於テ運航シ以テ海権ノ維持伸張ヲ期スルニ
アリ、而シテ海権ノ維持擴張ニハ其用具タル船舶ヲ第一必要條件
トスルヲ以テ特定航路経営ト共ニ使用船舶ノ建造取得モ亦本法

対象物件タルコトハ使用船規格ヲ規定セル同法第ニ條及命令船
ヲ外國人ニ譲渡、賃貸又ハ擔保ニ供スルニトテ禁止スル同法第十
ニ條規定ニヨリ明ナル故補助金ハ使用船建造取得ニ對スル報償
ヲモ含ムモノト解スルヲ正當トスベシ。

航海獎勵法及遠洋航路補助法ノ有資格船並ニ航海又ハ航路
A、航海獎勵法

(1) 資格船 總噸數一十噸以上最強速力十海里以上ニシテ造
船規定ニ合格シ船齡十五年以内ノ鉄鋼汽船(外國製造船ニ
シテ購入登録ノ降船齡五年ヲ超ハタルモノヲ除ク)

(四) 航海 日本ト外國間又ハ外國諸港間

B、遠洋航路補助法

(1) 資格船 總噸數三十噸以上一時間十二海里以上ノ速力ヲ
有シ主務大臣ノ定ムル造船規程ニ合格シ且帝國船籍ニ登

録シタル船齡十五年以内ノ鋼製汽船ニ限ル、外國製造ノ船
船ハ補助航海ニ使用スルコトヲ得ズ。但シ帝國船籍登録
ノ降船齡五年以内ノ船齡ニシテ已ムヲ得ザル事由ニ因リ
其ノ使用ニ關シ主務大臣ノ認可ヲ得タルモノハ此限りニ
アラス。

(四) 航路

歐洲航路 北米航路 南米航路 濠洲航路

二郵便物無料搭載其他我社ガ負擔シ居ル諸責務並失費

我社歐洲線、沙市線(但大正三年(九四年)ヨリビユ一セツトサウ
ド線ト改稱セラル)濠洲線ハ航海獎勵法ノ下ニ実施サレタル特別
航路助成命令ヲ以テ濠洲航路ハ明治二十九年十月以降、歐洲線及
沙市線ハ同三十三年夫々受命、明治四十二年以後ハ遠洋航路補助
法ノ下ニ引續キ大正十年三月三十一日迄受命シ居タルガ大正十

年四月一日以降ハ右三線共補助命令ヲ辞シ新ニ政府ト郵便輸送
契約ヲ締結シ、歐洲線及濠洲線ハ今日ニ至リ、河市線ハ昭和四年一
月以降更ニ遠洋航路補助法ニヨリ航路補助金ヲ受クルコト、ナ
リ居ル處米國所得税問題ハ一九一八年(大正七年)ヨリ一九二四年
ニ亘リ居リ此間我社命令關係ハ上記ノ通り遠洋航路補助法ニ依
ルモノト郵便運送命令ニヨルモノトノ二種ニ分レ居ル故一見我
社ノ責務モ亦夫々異ルガ如キモ航路補助法ニヨル命令書モ郵便
運送命令書モ其内容ハ補助金額ヲ除キテハ兩者畧同一ニシテ何
等輕重ナク我社ハ左ノ如キ責務ヲ負擔シ居レリ、從テ萬一補助金
ニ對シテモ愈々課税サル、場合ハ是等責務遂行ニ要スル諸費用
ハ経費トシテ當然控除サルベキモノト認ム。

(海付書類第十五、遠洋航路補助法ノ沿革ト實施概況参照)

(イ) 郵便物及郵便用品ノ無賃搭載

相當容積ノ郵便庫ヲ設クルコトヲ要シ若シ多量ノ郵便物アル
ル場合ハ安全ナル適當場所ニ保管スルコトヲ要ス、而シテ天
災不可抗力ニ依ル場合及相當事由アル場合ヲ除キテハ郵便
物ノ受授ニ關シ責ニ任ズ。

(ロ) 無線電信ノ通信ニ關スル設備

(ハ) 通信事務又ハ航路視察ノ爲主務大臣ノ派出セル吏員ハ之ヲ
無賃乗船セシメ、郵便局設置ノ場合ハ其事務室ノ提供諸設備
等ヲ爲シ通信吏員其他ノ派出員ニ對シテハ高等海員並ノ船
室及食事ヲ無料提供ス。

(ニ) 定期航海ノ維持並ニ之ニ必要ナル施設
荷客ノ有無ニ不拘定期發着ヲ要ス。

(ホ) 航海修業生ノ無賃乗船並ニ右修業生ニ對スル予當
航海修業生ハ左ノ割合以内トス。

總噸數	三十噸以上五十噸未満	四人
”	五十噸以上八十噸未満	五人
”	八十噸以上	六人

(一) 外國人使用制限

(二) 貨客運賃率ノ認可申請(制限嚴重也)

(三) 收支計算書及營業報告書ノ提出

(四) 船舶ノ收用使用

(五) 船舶ノ讓渡、貸渡及擔保ニ関スル制限

三、補助船舶が運搬セル郵便物ノ數量ニヨリ是ニ相當スル運賃ヲ

試ニ算出シタル結果添付書類第十條定郵便物運賃表ニ示ス

カ如キ數字ヲ得タリ参照セラルベシ。

四、補助金ノ領收時期(年四回ナリヤ又ハ一回ナリヤ)補助金ハ各航

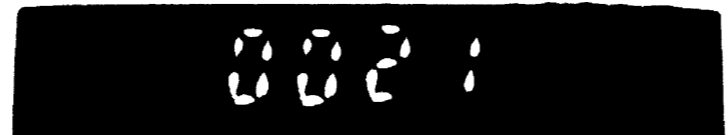
各航路毎ニ計算セラル、ヤ、補助金ノ收入ハ會計上如何ニ處理

セラレタリヤ

(各線ニ割當ラレタリヤ、一括記録セラレタリヤ)

(添付書類第十條 Subsidies for the North American line 参照)

以上



添付書類

- 27-
- 一、提供船ニ對スル命令書
 船舶使用命令書(戰航第四四九號)
 船舶使用命令ニ関スル件(戰航第四四〇號)
 - 二、提供船ニ對スル通信大臣ノ訓示
 - 三、我社提供各船ニ對スル通達
 米國提供船ノ件(船第一四九號)
 - 四、備船契約書(寫)
 - 五、提供船ニ関スル取締役會報告沿革
 六、公 營業報告書沿革
 - 七、提供船各船航海撮要日誌
 - 八、提供船發着表
 - 九、定期備船市場率表

-30-

十、假定運送郵便物運賃表

十一、Ships chartered to U. S. Shipping Board.

- Schedule 1. Rate & place of delivery & redelivered.
1. Rate & place of delivery & redelivered.
 2. Charter money received from 1918 to 1924.
 3. Charter money received for ships chartered to U. S. S. B.
 4. Charter money apportioned to fiscal year 1918 & 1919.
 5. Expenses of chartered ships apportioned to U. S. year 1918.
 6. year 1919.

- 150 -

十二、遠洋航路補助法

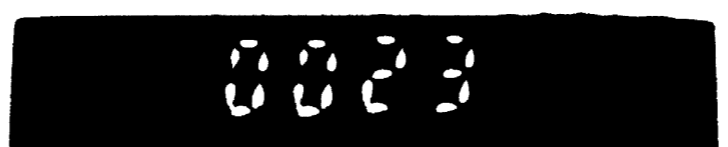
十三 遠洋航路補助法施行細則
 十四 補助航路ニ従事スル商事會社ニ關スル件(法第百三十二号)
 十五 遠洋航路補助法ノ沿革ト實施概況
 十六 一九一六年一月至一九二四年三月ニ至ル通信率命書
 十七 歐洲線各船發着表

十八 Subsidies for the North American line.

Schedule A. Subsidies received for each line from the year
 1918 to 1924.

	B.	Details of subsidies for Puget Sound line.
	C.	Kobe - Seattle line.
	D.	Kobe - Hongkong line.
	E.	European line.

以上



- vessels?
4. Who actually directed the movements of the vessels?
 5. Who actually attended to procuring fuel, bunkers and supplies?
 6. Who actually attended to arrangements for docking, berthing, loading, unloading and the making of repairs, if necessary?
 7. What orders or instructions were issued:
 - (a) By your company as to management and disposition of the chartered vessels?
 - (b) To your company or to the captains of your vessels by your Government under these charter parties?
 - (c) To your company or to the captains of your vessels by the United States Shipping Board (if not covered by entries in the log)?
 - (d) To your company or to the captains of your vessels by the supercargoes?
 8. Attach copies of instructions in each of the instances under (7) above.
 9. Were supercargoes actually on board the chartered vessels and if so:
 - (a) Were they United States army or navy officers?
 - (b) What authority did they exercise?
 10. Was any mention made of the payment of income tax at the time the charter parties were negotiated?
 11. Was any reference to the payment of income tax made thereafter? If so:
 - (a) Attach copies of any correspondence
 12. Did your American offices or any of their staff perform any services in connection with the chartered vessels?
 - (a) If so, what services, in detail

13. What were the current rates for time charters of vessels of type, size and speed similar to your vessels that were chartered?

- (a) In 1918
- (b) in 1919
- (c) in 1920

14. Were any statements made in your periodical reports to stockholders with reference to these charter parties?

- (a) If so, attach copies

15. Were any decisions concerning these charter parties adopted in writing by your Board of Directors?

- (a) If so, attach copies

16. How were the moneys received under the Charter Party treated or recorded in your books of account?

- (a) Were the moneys allocated to various services or lines?
- (b) Were they treated as a lump sum?

17. Were ships chartered to the United States Shipping Board or any of them convoyed during their voyages under the Charter Parties or were they used as convoys?

SUBSIDIES

1. Detailed statement as to the history of subsidies as far as your company is concerned.

- (a) When first available?
- (b) Did your company apply for same?
- (c) Are subsidy payments used for any particular purpose?
- (d) Attach copies of all correspondence, orders, etc.

2. When are subsidy payments received?

- (a) Quarterly?
- (b) Annually?

3. Are these payments computed for each vessel for each voyage?

4. What is your company obligated to do in order to qualify for payments?

5. How were these receipts treated in your books of account?

- (a) Allocated to services?
- (b) Recorded in lump sums?

March 29, 1934.

to show that subsidies are not taxed by the Japanese Government.

If any evidence can be produced to show that the subsidies have connection with or are conditioned upon the construction of ships instead of the operation of ships, it should be submitted. For example it may be shown that at the time subsidy arrangements were made with the Government, the company obligated itself to acquire some new ships. Such a situation relating to arrangements after September 30, 1922 would not carry much weight but if it related to arrangements prior to the war years or even as far back as the beginning of subsidies, it would be much more important.

The subsidized ships were required to carry mail free. This fact in itself implies that the payment was in part for service rendered. How much mail was carried? Perhaps some estimate can be made of the amount that would have been received for carrying mail on subsidized ships if such ships had not been subsidized. Any data on the relative importance of carrying mail will be helpful.

If it is possible for an official of the company most familiar with the matter of subsidies to write a story of the history and operation of the Japanese subsidy law, with an explanation of the intent and purpose of the subsidy and the spirit in which the arrangements were carried out, it would be very helpful. On the question of the intent and the purpose of the law, it may be possible and would be helpful if a statement could be obtained from an official of the Government familiar therewith, particularly an official who had knowledge of the facts in earlier years.

March 29, 1934

NIPPON YUSEN KAISHA

SUPPLEMENTAL MEMORANDUM OF INFORMATION REQUIRED AS TO
CHARTER PARTIES WITH UNITED STATES SHIPPING BOARD

1. Copies of all charter parties entered into with United States Shipping Board from September 30, 1917 to September 30, 1921.

2. Detailed statements as to negotiations for these charter parties as follows:

- (a) Copy of memoranda exchanged by the American Embassy at Tokio with the Imperial Japanese Department of Foreign Affairs relative to the charter of Japanese owned steamers to the United States Shipping Board referred to in the first paragraph of the charter parties.
- (b) Did your company voluntarily execute these charter parties or were you required to execute them by your Government?
- (c) Were the terms of the charter parties imposed upon you by your Government or negotiated by you in the usual course of business?
- (d) Was your company dealt with as a separate entity or in conjunction with other Japanese steamship companies in connection with these charter parties?
- (e) Attach copies of any correspondence in connection with these various points

3. Detailed statement as to the movements of each vessel during the chartered periods as follows:

- (a) Statement showing ports of call, dates of arrival, departure, etc.
- (b) Attach copies of the logs (translations, if not in English).

proper to include this period of 106 days because charter hire was not collected from the Shipping Board for that period.

Further, it would be very desirable to have information as to the kind of service these ships were actually engaged in while under charter to the Shipping Board; that is, did they carry troops or freight and between what ports. One voyage ends and another starts when a ship is completely unloaded and in connection with item No.4 above it would be helpful to show at which ports a voyage was completed and which ports were merely stops en route, and, if it is know, what kind of cargo was carried.

The whole argument of the Treasury is based on the assumption that during the charter periods the ships were going to or from United States ports. If this assumption is not true, that is, if these ships were plying between South American and European ports, the charter hire while in such service would not be taxable income even under the Treasury theory.

It is noted that the charter parties provide for 40 billings 6 pence per dead-weight ton per calendar month, but the amounts received from the Shipping Board exceed a calculation based on such a rental by approximately 25%. It would appear that the amounts received from the Shipping Board covered something in addition to the charter hire and an explanation is desired, if possible.

Subsidies:

A detailed schedule is desired showing for each of the years ending September 30, 1918 to September 30, 1922, inclusive, the names of the ships on which subsidy was received, the amounts of the

subsidy for each ship for each year, and precise information as to the line on which such ship was employed when such subsidy was received. In this way it is desired to show how much subsidy related to the North American Line, how much to the European line and how much to the Australian line; and if subsidies were received for some other line, then the amount for such other line. The present records on file with the Treasury show only the total amount of subsidy for the year, without any details as to ships or lines. The real necessity is to determine the amounts for each line and it is believed that this can best be done first be ascertaining the amount for each ship and then accumulating the figures by lines.

It will also be important to obtain an authoritative translation of the Japanese subsidy law and authoritative translations of the orders of the Minister of Communications prescribing the subsidy to be received by the company. We believe that the subsidy law in effect was the law of 1910, but if there were amendments it will be necessary also to submit authoritative translations of such amendments. If a new subsidy law was enacted or any changes were made between October 1, 1917 (the beginning of the period) and September 30, 1922 (the end of the period) authoritative translations of such law or change are desired. If there were any contracts between the company and the Government relating to subsidies between the dates mentioned or affecting the amounts of the subsidies for the years involved, authoritative translations of such contracts are desired.

It would appear that for purposes of Japanese income tax subsidies are included in taxable income, but if this is not the case, an authoritative translation of the document would be very important

would depend upon the amount of the amortization allowance which may be quite different than any of the amounts heretofore discussed with the Treasury. We do not wish to imply that a substantial refund may be obtained by an appeal to the Board, but we wish to make it clear that an appeal to the Board involves a redetermination of the whole question of your taxes. The rules of the Board are quite technical and there will be great difficulty in presenting the necessary evidence according to the rules. As you doubtless know, we, as accountants, do not undertake to present our clients' tax cases to the Board, nor may we represent our clients before the courts. A notice similar to that already received by Toyo Kisen Kaisha will probably be issued within the next few weeks. An appeal to the United States Board of Tax Appeals must be taken within sixty days of the date of the notice and we wish to advise you that we shall be glad to render every possible assistance in preparing the appeal and the evidence for your attorneys. If after you have considered this matter you wish some alternative action taken we shall be glad to hear from you either direct or through your attorneys.

We enclose a memorandum and a supplemental memorandum setting forth some of the additional information which it will be necessary to obtain from your head office at the earliest possible moment since it is imperative that we and your attorneys be placed in a position to properly represent you and we cannot do so without this additional information.

Yours very truly,

Price, Waterhouse & Co.

Enclosures -

NIPPON YUSEN KAISHA

MEMORANDUM OF ADDITIONAL INFORMATION REQUIRED FOR PREPARATION OF ANTICIPATED APPEAL TO THE UNITED STATES BOARD OF TAX APPEALS

Ships Chartered to Shipping Board:

The eight ships chartered to the Shipping Board were as follows:

Rangoon	Tottori
Ceylon	Jinsen
Penang	Kirin
Awa	Tosa

For each of the eight ships chartered to the Shipping Board the following information is necessary:

1. Name of ship
2. Date delivered to Shipping Board and the name of the port at which delivered
3. Date re-delivered by the Shipping Board to the company and the name of the port at which re-delivered.
4. For the period between the two dates above, list the names of the ports at which the ship called and show the date of arrival and date of sailing for each port at which the ship called

The foregoing information is required primarily to ascertain the number of days in United States ports and also as a basis on which to develop further argument on your behalf. If in any case this information shows that a ship was in some particular port for an unusually long period, please make such explanation as possible. For example, the Ceylon Maru was laid up at New York from November 5, 1918 to February 20, 1919 on account of sea casualty. If this period of 106 days is included in the days in United States ports, it will increase the amount of income from United States sources. It would not seem

Subsidies:

The question whether subsidies received from the Japanese Government constitute income in part from sources within the United States has been brought up by the Treasury as far back as 1921. The Treasury took the view that the subsidies constituted income from the operation of ships just the same as freight and passenger revenue. They assert that the subsidies were not received for or on account of the construction of ships, and therefore did not constitute a contribution to the capital of the companies. We have filed briefs with the Treasury stating the grounds on which it is contended that the subsidies do not represent income in any part from sources within the United States and we have dealt with the question at length in our letter to Messrs. Burlingham's firm, previously referred to.

In the notice to Toyo Kisen Kaisha the Treasury included all subsidies received as income from United States service and it is probable that in the notice being prepared for your company the Treasury will include all subsidies notwithstanding that part of the subsidies related to the Australian and European lines. A detailed analysis of the subsidies has never been submitted to the Treasury and it will now be desirable to obtain such details for the purpose of preparing a petition to the Board of Tax Appeals.

We would expect that the Treasury notice will purport to include only the subsidies on the North American line but the tax will be computed by including the total subsidies of all three lines, and on this basis the amount of tax involved will be approximately as follows:

- 1918	\$170,000.00
- 1919	70,000.00
- 1920	<u>45,000.00</u>
	\$285,000.00
	=====

When information has been submitted as to the amount of the subsidies on the North American line, the Treasury will unquestionably consent to a correction so that the amount of tax involved on the subsidy question may properly be considered as the proportion of the above amounts which the North American line subsidies bear to the total subsidies.

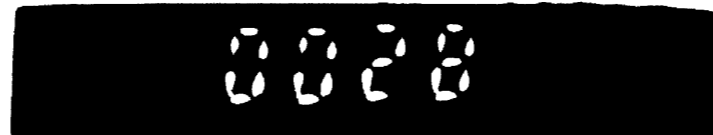
In the foregoing comments we have mentioned certain amounts as representing United States taxes involved on these questions, but it should be understood that no precise computations are possible.

The law provides that the rate of tax in the case of a foreign corporation shall be the average rate of representative domestic corporations similarly circumstanced with respect to gross income, net income, profit per unit of business and capital employed. The Treasury does not disclose the names of the domestic corporations with which comparison is made or the method of selecting such corporations. Until the amount of net income of the foreign corporation is determined, the Treasury does not select the comparatives and we have at present no information as to the rates of tax which may be applied in your case. The amounts of tax mentioned in this letter are based upon estimates of the rates which we think may be applied. The sum of these amounts is \$1,200,000.00. If charter hire and subsidies were held not taxable and amortization were allowed on the basis of the Ballantine conference, there would probably be a refund of perhaps \$100,000.00 so that for present purposes it may be considered that the notice of deficiency to be issued by the Treasury to your company will show a net additional tax of \$1,100,000.00. The exact amount will be known upon receipt of the notice in a few weeks.

These figures are so largely matters of estimate that we hesitate to have you attach significance to them as such and we mention them only to give you some idea of the exceedingly serious difference in the taxes of your company.

In these circumstances we hesitate to proceed without placing the facts before you and receiving your instructions. Even after a "notice of deficiency" is issued, it is possible to continue negotiations with the view of reaching a settlement without trial. Such a compromise settlement, however, usually involves concessions by the taxpayer as well as by the Government, but in your case the amounts of tax involved and the merit of your contentions on the three points are such that without specific instructions from you we cannot make a substantial concession to effect such a settlement. The further procedure provided by law is to prosecute an appeal before the Board of Tax Appeals or to pay the tax and file suit in court for refund. In either event it will probably be some years before a decision can be obtained and the cost of prosecuting your appeal would probably amount to a considerable sum of money. Further, as you probably know, in the event of an unfavorable decision interest at the rate of six per cent per annum on the amount of additional taxes finally found to be due would be charged to you from February 26, 1926 to the date of payment. In this connection there is, of course, open for consideration the question of exchange which may or may not be more favorable, say two years hence, than at the present time.

In preparing a petition to the Board of Tax Appeals, claims would be made on your behalf for all items which would be advantageous to you and the Board would make a redetermination of your tax according to its decision on the issues and the facts presented. The possibilities of a refund would depend upon a favorable decision by the Board on each of the three major questions, and the amount of the refund



Amortization:

The decision of the Treasury to disallow amortization is not consistent with the results of our meetings with Assistant Secretary of the Treasury Ballantine about which we advised you under date of July 10, 1931. These meetings were followed by a meeting with the Valuation Division on September 3, 1931, at which time it was arranged that amortization should be allowed not only on ships constructed or acquired between April 6, 1917 and November 11, 1918, which engaged in United States service or commenced a voyage to United States ports prior to November 11, 1918, but also on ships under construction at November 11, 1918, the allowance on such ships not to exceed the amount of the expenditures prior to November 11, 1918. It is the amortization on uncompleted ships that the Treasury has disallowed. In the case of Toyo Kisen Kaisha, and such action affords no indication of the extent to which the Treasury may allow amortization in your case with respect to ships completed prior to November 11, 1918.

We would explain that the arrangement resulting from the meetings with Assistant Secretary Ballantine was for the purpose of reaching a settlement without litigation and represented concessions on both sides. We are led to believe that the Treasury does not now recognize such arrangement for the purpose of giving formal notice of deficiency from which appeal can be taken to the Board of Tax Appeals. We anticipate that in the notice of deficiency to be issued to your company the Treasury will allow some amortization on completed ships but will allow none on uncompleted ships.

In the great majority if not all cases, domestic taxpayers have been allowed amortization in respect of uncompleted facilities, that is, plants, buildings, etc., which were in the course of construction but uncompleted as of November 11, 1918, and it has seemed to us inconsistent that foreign taxpayers should not receive the same allowance. The Treasury has taken the position that allowance cannot be made for a deduction unless it is connected with income received from sources within the United States, and since during the war no income was received from uncompleted ships, there is nothing from which to deduct the allowance for amortization so far as it relates to uncompleted ships. The Treasury attempts to strengthen its argument by asserting that the allowance for amortization is the same as an allowance for depreciation, which latter allowance naturally follows the ship. Our position is that the allowance for amortization is not comparable to depreciation, since it was not dependent upon wear and tear of the property and was granted by Congress solely in recognition of the excessive cost of acquiring or building property for the purpose of aiding in the prosecution of the war. Allowances for amortization on uncompleted facilities were made to domestic taxpayers irrespective of whether these facilities produced income during the war, and we see no reason why the same treatment should not be accorded to foreign taxpayers.

We have as yet received nothing in writing from the Treasury and such information as we have does not afford a basis on which we may compute the amount of United States income and profits taxes involved. If in your case the Treasury should allow with respect to completed ships the amounts we think represent the minimum to which you are entitled and should disallow only the amortization on uncompleted ships, the amount of taxes involved on such disallowance would be approximately \$80,000.00, falling largely in the year 1919. But, as previously stated, we have no assurance that the Treasury will make a reasonable allowance on completed ships and the amount of tax involved may be very much larger.

Charter Hire Received:

We have nothing in writing from the Treasury stating the grounds upon which they base their opinion that charter hire received from the United States Shipping Board constitutes in any part income from sources within the United States. The question has been discussed from time to time and we have filed briefs stating the grounds upon which we rely to support the contention that no part of such charter hire is taxable. The General Counsel's representative in the Treasury has stated to us orally that his decision rests upon an interpretation of the charter parties, the essence of which is that they constitute contracts of affreightment rather than contracts of rental. He argues that if they are contracts of affreightment, the income is no different than the income from ordinary freight revenue from direct operation of the ships in United States trade. We have written fully on this subject to Messrs. Burlingham, Veeder, Fearey, Clark & Hupper in our letter of February 27, 1934, a copy of which is attached.

If the charter hire received is in any part taxable, a deduction should be allowed for a part of the expense of salaries and allowances of seamen, etc., incurred during the charter periods. Such a deduction would be computed on the ratio of the days in United States ports to the total days during the charter periods. These amounts also enter into the apportionment of gross income between sources within the United States and sources without the United States. The information for such a computation with respect to ships chartered to the Shipping Board was not obtained by our representatives in 1927 as it was not pertinent to what we believed to be a correct interpretation of the law. The computation on which the Treasury is now engaged will show a greater amount of tax by reason of the absence of such information. We believe it desirable to obtain the information for the purpose of preparing a petition to the United States Board of Tax Appeals, although it is understood, of course, that if the question of charter hire is ultimately determined in your favor, the question of expenses is immaterial.

The amount of United States income tax involved in the question of charter hire is approximately \$835,000.00, being approximately \$370,000.00 for the year 1918 and \$465,000.00 for the year 1919.

In conclusion, I would add that it is my firm conviction that neither charter moneys for subsidies received by your client can be subjected to tax in the United States; first, because they are not affirmatively taxed under any provision of our income tax acts, and, second, because in neither case were the amounts received the result of doing business or performing service within the territorial limits of the United States. In the original Treasury Decision 3387 the provision for allocation of income as between the United States and elsewhere is restricted to the income derived from the "Business of transportation service". If it had been the intent to tax charter moneys received by foreign taxpayers a special provision would have been required for the reason that the charter hire provided for in the charter parties might very well have been based on a variety of considerations requiring separate treatment. The same is true of subsidies which are not mentioned in the Treasury Decision and in this case subsidies, if taxable, would require different treatment than the earnings from transportation service because the subsidies are computed entirely on the ton mile basis without any time or freight tonnage limit being taken in to consideration.

I hope that the above remarks will assist you in your review of these questions.

Yours very truly,

(Signed) DONALD ARTHUR

COPY

Price, Waterhouse & Co.

56 Pine Street
New York
March 29, 1934

Mr. K.O. Takahashi, Manager,
Nippon Yusen Kaisha Lines,
25 Broadway,
New York, N.Y.

Dear Sir:

UNITED STATES INCOME AND PROFITS TAXES
FISCAL YEARS ENDING SEPTEMBER 30, 1918 to 1922 INCLUSIVE

Since writing to you on January 22nd last, the situation with reference to your tax matters has taken a quite unexpected turn. Toyo Kisen Kaisha has been formally advised by the Treasury of the amount of its taxes for the years in which that company was involved, and we are informed that the Treasury is engaged in preparing similar formal notifications to your company and to Osaka Shosen Kaisha. This notification is issued under the provisions of Sections 274 and 283 of the Revenue Act of 1926 and constitutes a "notice of deficiency" from which an appeal may be taken to the United States Board of Tax Appeals if filed within 60 days from the date of notice.

In the notice issued to Toyo Kisen Kaisha three vitally important questions have been dealt with unfavourably by the Treasury. They are as follows:

1. Amortization has been disallowed entirely, but the facts were quite different than in your case and it may be that the Treasury intends to disallow only the amortization on new ships not completed or which did not commence a voyage to the United States on or prior to the date of the Armistice, November 11, 1918.
2. Charter hire received from the charter of ships to the United States Shipping Board has been dealt with as taxable income the same as freight and passenger revenue from transportation service touching United States ports.
3. Subsidies received from the Japanese Government have been dealt with as taxable income to the same extent as freight and passenger revenue.

instrument of national policy having no immediate relationship with the ocean transportation of "freight and passenger traffic originating within the United States." These subsidy payments were not made under shipping contracts between the steamship companies and shippers; they had nothing whatever to do with the question of volume and classes of freight, receiving, loading and unloading freight, receiving freight moneys, or with similar operations going to make up the business of ocean transportation. It is, we think an unwarranted interpretation to say that these subsidies, received from the Japanese Government, constituted "income that accrues within the United States" in connection with the handling of "freight and passenger traffic originating within the United States", or with services performed within the United States.

As stated above, we know of no specific provision in the 1918 Act regarding the treatment of subsidies received by a foreign corporation from a foreign government. However, it appears clear that in Section 233(b) the Congressional intention was to tax only the income arising from business operations within the United States and from securities issued by residents. We think it may be helpful to quote here Section 233(b) with our underscoring to indicate our reading of this section:

"In the case of a foreign corporation gross income includes only the gross income from sources within the United States, including the interest on bond, notes, or other interest-bearing obligations of residents, corporate or otherwise, dividends from resident corporations, and including all amounts received (although paid under a contract for the sale of goods or otherwise) representing profits on the manufacture and disposition of goods within the United States."

Unlike the later acts, the 1918 law required both manufacture and sale within the United States in order to bring the profit on sales of goods into taxable income.

We think that this section, fairly interpreted, clearly restricts the taxation of foreign corporations to tax on income derived from within the territorial limits of the United States and it is by no means broad enough to include subsidies paid by a foreign government to its nationals primarily to insure the maintenance of maritime connections with the rest of the world, from political and social, rather than from economic or profit-making considerations.

It may not be amiss to point out that the regulations issued under the later acts, dealing with income from ocean transportation, refer specifically to revenues from transportation service. For example, Article 683 of Regulations 77 provides that "The gross income from sources within the United States from such services (the

business of transportation service) shall be determined by taking such a portion of the total gross revenue therefrom (the services) as (a) the sum of the costs or expenses of such transportation business carried on by the taxpayer within the United States,

We have understood "transportation business" and "transportation service" to mean primarily the transporting of freight and passengers across the seas. The "business" and the "service" referred to are not carried on to earn subsidies but to earn freight and passenger revenues and the "costs or expenses of such transportation business" are incurred to the end of earning such revenues. We think it may fairly be said that such "costs or expenses" are incurred largely in receiving, loading, unloading and transporting freight and by no means in earning subsidies.

In I.T. 2098 it was held:

"That where a vessel sailing from a foreign port to another foreign port or to a port in the United States incidentally comes within the 3-mile limit or touches at another United States port where no business is transacted such as to result in income from sources within the United States and again goes without the 3-mile limit to reach the port at which the income-producing business is transacted, no portion of the time or mileage by reason of such incidental passing through the United States territorial waters should be included in computing the portion of expenses to be allocated to the United States, as such expenses are properly chargeable to the voyage as a whole. In computing the time or mileage of the vessel from the time it enters the 3-mile limit to the time of arriving at the United States port where the income-producing business is transacted, so long as a recognized or established route is followed, the time or mileage should be computed from the time and point at which the vessel crosses the boundary line of the 3-mile limit to the United States port, and the same rule applies to the departure of the vessel from such port". (II-2 C.B. 167).

Although this ruling was published as an interpretation of T.D. 3387, I think it is significant that it requires operators of steamships to account for time and mileage only in connection with "income-producing business" transacted within the territorial limits of the United States.

On the question of subsidies, I find myself unable to strengthen the arguments advanced in our memorandum of January 1922 as amplified above.

of products by a foreign corporation to the Government of the United States. The capital stock of the foreign corporation was owned 99% by an American corporation, the latter company receiving from its subsidiary a portion of the profits in question as consideration for the loan of plans, specifications, equipment and services of engineers. The foreign company had no office or place of business in the United States. All the contracts with the United States Government were signed and executed outside the United States and the products were paid for f.o.b. the plant of the foreign corporation and payment was received in the foreign country. The Committee held "that the profits from such sales were not derived from a source within the United States". (A.R.M.133, 4 C.B. 114).

Although the Committee was not dealing with a case on all fours with ours, I think it is significant as pointing out the principle that all profits received from governmental or other American sources do not necessarily constitute taxable income within the meaning of the relative taxing statute. The method of earning the income as well as the place from which it is received both require to be determined. Viewed in this light, and considering the fact that the charter moneys were received in Japan (under contracts executed in Japan), not for services related to the ocean transportation of "freight and passenger traffic originating in the United States", or originating in any other country, but as rental of the ships solely on a time basis, whether or not the ships were used by the Shipping Board for ocean transportation, or were allowed to be idle, I do not see how these rentals could fairly be classed as income from American sources. The fact that your client maintained a place of business in the United States should have no bearing on the question. The place of business was maintained solely to handle "freight and passenger traffic originating in the United States", or having its terminus in the United States and it had nothing whatever to do with the execution of the charter parties, with the management of the ships chartered or with the transmission of the moneys received under the charter parties.

The use of the phrase "Freight and passenger traffic" in Acting Attorney General Frierson's opinion referred to above is, we think, significant. The word "traffic" in the definition contained in the Oxford Dictionary includes "Transportation of goods, coming and going of persons or goods by road, rail, steamship route, etc." It is our view therefore that the phrase used by Mr. Frierson is synonymous with the phrase used in T.D. 3387, namely, "Carrying on the business of transportation service". The latter phrase involves the whole business of soliciting freight and passengers, transporting them to destination and unloading them at the point of destination and could not conceivably embrace as part of this service or traffic moneys received as rental of ships, which in turn were used by the U.S. Shipping Board for its own purposes. The hiring of the ships to the U.S. Shipping Board effectively removed the ships from the "transportation business" conducted by this company.

The late Dr. T.S. Adams in a memorandum prepared for Secretary of the Treasury Mellon on the subject of the proposed Treasury decision under Section 217 (e) of the 1921 Revenue Act said "Transportation service has to be sold. Offices and officials to secure traffic must be maintained or employed; material expenditures are made upon advertising; and these selling expenses afford, in their relation or proportion to other expenses, a convenient and not obviously defective measure of the importance of this element of the business. The regular transaction of business at a given place is generally and correctly regarded as creating a source of income or profit at that place".

In the case of the charters we are now considering, the only business that was transacted was transacted in Japan. None of the elements mentioned by Doctor Adams was necessary for the transaction of this business and it seems to us that the hire of these ships whether with or without captain and crew or with or without engines made no difference in the character of the income received except that the amount of the income would necessarily be greater or smaller according to whether crew and engines were furnished or were not furnished. If the phrases quoted above are, as we think, synonymous, then we believe it would be necessary to attribute to the receipt of charter money an element of traffic or service which simply does not exist.

Similarly, the operations of the American offices of our clients had no essential relationship to the matter of subsidies, which were granted by act of the Japanese Parliament and which were paid on the basis of miles steamed irrespective of the origin or the volume of the "freight and passenger traffic".

So far as we know, there is no provision of the 1918 Act or the regulations or rulings thereunder which deals specifically with subsidies. The Supreme Court's decision in the Cuba Railroad case dealt solely with the definition of income in connection with subsidies received by an American company which was subject to tax on income from all sources. Determination of source was not a question in that case; it is the important question in the case of our clients. Although the court stated that the subsidies were not received for services rendered, and perhaps indicated thereby that subsidies might be taxable if received for services rendered, the subsidies received by the Japanese companies were not paid by the Japanese government for transportation services connected with the handling for it of "freight and passenger traffic".

In considering the question of the source of the subsidies, it is important to emphasize that the payments were made in Japan by the Japanese Government under legislative authority, as an

C O P Y

February 27, 1934

Mr. Van Vechten Veeder,
Messrs. Burlingham, Veeder, Fearey,
Clark & Supper,
27 William Street,
New York, N.Y.

Dear Judge Veeder:

NIPPON YUSEN KAISHA
CHARTER HIRE AND SUBSIDIES.

I have your letter of February 23, 1934 requesting that I refer you to specific provisions of the law and regulations upon which I rely in support of the proposition that moneys received by the above company as charter hire and subsidies during the years 1918 to 1920 inclusive are not taxable in the United States.

At the outset it seems pertinent to observe that our only concern is with the determination of the amount of taxable income of the above company which, under a reasonable interpretation of such rulings as there are, can be deemed to have been derived from sources within the United States. Our task has not been to define income in general but primarily to ascertain from what place certain classes of income were derived in order to determine the liability to Federal income and profits taxes under the 1918 Act. As you are aware, Congress, in all the Acts, has followed the policy of requiring foreign corporations to include in gross income which might be subject to tax "only the gross income from sources within the United States". (Section 233(b) 1918 Act).

As stated in the opinion of Acting Attorney General Frierson, dated November 3, 1920, "The obvious purpose of this section is to tax only income that accrues within the United States". (T.D. 3111, 4 C.B. 280). In that opinion it was held that an English steamship line derived income from United States sources (where its business in the United States was handled by a firm of brokers and agents) "to the extent that it derives income from freight and passenger traffic originating within the United States". (I shall have something to say about the word "traffic" later on in this letter).

- 2 -

This, of course, could only be supported if the steamship business could be held to be on all fours with the business of manufacture and sale. The language of the 1921 Act (Section 217 (e)) recognizes the "service" quality of the shipping business and the analogy derived from Mr. Frierson's opinion is, therefore, destroyed. It seems unnecessary to say that the failure to specify the "service" quality of the shipping business in prior acts cannot conceivably be construed to mean that under prior acts the operation of shipping companies did not constitute a "service" but was tantamount to "Manufacture and sale". As well say that our revered President, Mr. Roosevelt, could change the character of the "Sun" and the "Moon" by renaming them the "Moon" and the "Sun".

The arrangement made with the Treasury in respect of years prior to 1921 was in essence that income of foreign steamship companies for these years should be arrived at by applying the principles enunciated in T.D. 3387 so far as not inconsistent with the general provisions of the acts governing these prior years.

Regulations 45 under the 1918 Act made no reference, specifically to the American earnings of foreign steamship companies, except in Article 92. This article, as you know, provides, among other things, that charter hire money received by a foreign steamship owner from an American would not be subject to tax when the owner has no office or place of business in the United States. In Office Decision 651; Article 92 of the Regulations was limited to "Foreign Steamship Companies having no office, connections or agency in the United States, whose vessels only occasionally touched at ports in the United States and who could not otherwise be regarded as doing business therein". It has seemed to us that this limitation was unwarranted in any case where the receipt of the charter money did not involve doing business in the United States, whether in fact the corporation did other business in the United States upon which it was taxable.

It has been our view that the charter money received from the U.S. Shipping Board did not constitute income from "freight and passenger traffic" or from carrying on the Business of transportation between points within and without the United States. We would understand that business of transportation to require organization and control of personnel and equipment, financing, the solicitation and receiving, loading and unloading of freight and similar operations. The rentals payable under the charter parties had no relation whatever to these matters. The rentals were payable merely for the use of the ships and their crews purely on a time basis, whether or not the ships sailed a league or took on a pound of freight anywhere. Furthermore, the charter parties were executed in Tokio and the rentals were payable in Tokio in Japanese funds.

In this connection, it is of interest to note the opinion of the Committee on Appeals and Review, published in the early part of 1921, regarding the taxability of profit derived from the sale

E-0337

通商局長
寫外務省

通商局長
寫外務省

御 願 書

謹啓 益御多祥之段奉慶賀候 陳者

今般北米合衆國政府ハ多年懸案ナリシ一九一七年以降數ケ年間ノ
 全國所得稅及戰時利得稅ノ決定ニ付キ同國政府ト納稅者トノ間ニ
 互譲妥協ノ精神ニヨリ圓滿ナル解決ヲ爲スベシトノ了解アリタル
 中ラズ(別途提出本件經過大要御參照被下度候)今回突如トシ
 テ獨自ノ稅法解釋ニヨリ不充分ナル材料ニ基キ多額ノ追徵金ヲ查
 定シ之レニ應セザレバ直ニ強制執行ヲ爲サントスルノ態度ニ出デ
 現ニ東洋汽船會社ハ去ル二月、一九一八年及一九一九年度ニ付キ
 六九八六五弗四〇ノ追徵金ヲ決定セラレ一九一七年度分所得稅ト
 共ニ納稅ニ應セザル理由ノ下ニ總洋丸ノ差押ヲ受クルニ至レリ
 日本郵船會社及大阪商船會社ハ未ダ追徵金ノ決定ヲ見ザレドモ略
 々同様ノ立場ニアリ相當多額ノ追徵金ヲ査定セラレ不日 Notice of
 deficiency ヲ發セラレントストノ内報ニ接シ申候

1. Master of the ship...
 2. ...
 今日 郵船會社 探査スルハ 兩社トシテ

懸案

4

抑々本件ハ夙ニ船舶二重課稅ノ國際的大問題ヲ惹起セシ最大原因
 ヲ爲スモノニシテ既ニ船舶相互課稅免除條約締結ニ嚙シ屢々具陳
 仕候ニ付今改メテ申上グル迄モ無之儀ニ候得共爲念各社本件經過
 ノ大要別紙ヲ以テ夫々提出可致候間御高覽賜度候
 今回米國政府ガ右ノ如キ不當ナル追徵金ヲ課セントスルニ至リタ
 ル眞意ノ奈邊ニ存スルヤハ之レヲ知ル能ハザル次第ニ候得共稅法
 上ノ根據ハ囑託會計士ノ報告書(寫並ニ説明書作成提出可仕候)
 ニ依レバ戰時中ノ「アモーチゼーション」政府補助金、提供船料
 ニ付キ不條理ナル解釋ヲ爲シタル結果ニ有之(政府補助金及提供
 船料等ニ對シテハ詳細ナル取調ヲ爲サズ獨斷的ニ過大ナル推算ヲ
 爲シ)殊ニ「アモーチゼーション」ニ關シテハ米國內諸會社ト差
 別待遇ヲ爲シテ追徵金ヲ決定シタル如キハ一同ノ頗ル意外トスル
 所ニ有之候
 政府ト納稅者トノ間ニ於テ法ノ解釋ニ關シ意見ヲ異ニスル場合モ

有之候得共不充分ナル材料ヲ以テ不當ナル査定ヲナシ若クハ國ノ
内外ニヨリ差別的待遇ヲ爲スガ如キ決定ニ對シテハ下名等ハ到底
承報難致次第ニ御座候

右事情御賢察ノ上不法ナル決定通知ノ發送方阻止ニ付キ至急御援
助相賜度尙差別待遇ノ撤廢、税法ノ適當ナル解釋ニ對スル米國當
局ヘノ御勸說又今回總洋丸ニ對シテ採リタル如キ突如差押ヲナス
ガ如キ事無之様御高配賜度一同連署ノ上此段奉懇願候 敬白

昭和九年五月廿一日

日本郵船株式會社

取締役社長 各務 鎌 吉

大阪商船株式會社

取締役社長 堀 啓次郎

東洋汽船株式會社

取締役社長 淺野 良三

遞信大臣 弘 殿

寫 外務省

謹啓 陳者
米國所得稅ニ關スル五月廿一日附御願書ニ基キ、本件經過大要及
ビ紐育囑託會計士ヨリノ報告書寫別紙ノ通り提出仕候間御高覽賜
度候

敬 白

昭和九年六月六日

日本郵船株式會社

取締役社長 各務 鎌 吉

遞信大臣 弘 殿

寫 外務省

御 願 書

謹啓 益御多祥之段奉慶賀候 陳者
今般北米合衆國政府ハ多年懸案ナリシ一九一七年以降數ケ年間ノ
同國所得稅及戰時利得稅ノ決定ニ付キ同國政府ト納稅者トノ間ニ
互讓妥協ノ精神ニヨリ圓滿ナル解決ヲ爲スベシトノ了解アリタル
ニ拘ラズ（別途提出本件經過大要御參照被下度候）今回突如トシ
テ獨自ノ稅法解釋ニヨリ不充分ナル材料ニ基キ多額ノ追徵金ヲ查
定シ之レニ應セザレバ直ニ強制執行ヲ爲サントスルノ態度ニ出デ
現ニ東洋汽船會社ハ去ル二月一九一八年及一九一九年度ニ付キ六
九、八六五弗四〇ノ追徵金ヲ決定セラレ一九一七年度分所得稅ト
共ニ納稅ニ應セザル理由ノ下ニ樂洋丸ノ差押ヲ受クルニ至レリ
日本郵船會社及大阪商船會社ハ未ダ追徵金ノ決定ヲ見ザレドモ略
ボ同様ノ立場ニアリ相當多額ノ追徵金ヲ査定セラレ不日 Notice of
deficiency ヲ發セラレントストノ内報ニ據シ申候

抑々本件ハ裝ニ船舶二重課稅ノ國際的大問題ヲ惹起セシ最大原因
ヲ爲スモノニシテ既ニ船舶相互課稅免除條約締結ニ關シ屢々具陳
仕候ニ付今改メテ申上グル迄モ無之儀ニ候得共爲念各社本件經過
ノ大要別紙ヲ以テ夫々提出可致候間御高覽賜度候
今回米國政府ガ右ノ如キ不當ナル追徵金ヲ課セントスルニ至リタ
ル眞意ノ奈邊ニ存スルヤハ之レヲ知ル能ハザル次第ニ候得共稅法
上ノ根據ハ囑託會計士ノ報告書（寫並ニ說明書作成提出可仕候）
ニ依レバ戰時中ノ「アモイチゼーション」政府補助金、提供船料
ニ付キ不條理ナル解釋ヲ爲シタル結果ニ有之（政府補助金及提供
船料ニ對シテハ詳細ナル取調ヲ爲サズ獨斷的ニ過大ナル推算ヲ爲
シ）殊ニ「アモイチゼーション」ニ關シテハ米國內諸會社ト差別
待遇ヲ爲シテ追徵金ヲ決定シタル如キハ一同ノ頗ル意外トスル所
ニ有之候
政府ト納稅者トノ間ニ於テ法ノ解釋ニ關シ意見ヲ異ニスル場合モ

大阪商船株式會社

昭和九年五月廿三日

外務省
通商局長 來 栖 三 郎 殿

大阪商船株式會社
社長 堀啓次郎 代理
東京支店長 渥美育郎

一九一七年ヨリ一九二〇年ニ至ル米國
所得稅及戰時利得稅ニ關スル件

右件ニ關シテハ裝ニ遞信大臣宛日本郵船東洋汽船及弊社ノ三社連名
願書寫ヲ提出仕置候處該願書ニ附隨スベキ各社別本件經過報告書弊
社ニ關スル分別ニ遞信省へ提出仕候ニ就テハ其寫一部同封御届申上
候

以 上

(七七號)

有之候得共不充分ナル材料ヲ以テ不當ナル査定ヲナシ若クハ國ノ
内外ニヨリ差別的待遇ヲ爲スガ如キ決定ニ對シテハ下名等ハ到底
承報難致次第ニ御座候

右事情御賢察ノ上不法ナル決定通知ノ發送方阻止ニ付キ至急御
助相賜度尙差別待遇ノ撤廢、稅法ノ適當ナル解釋ニ對スル米國當
局へノ御勸說又今回樂洋丸ニ對シテ採リタル如キ突如差押ヲナス
ガ如キ事無之様御高配賜度一同連署ノ上此段奉懇願候 敬白
昭和九年五月廿一日

日本郵船株式會社

取締役社長 各 務 謙 吉

大阪商船株式會社

取締役社長 堀 啓次郎

東洋汽船株式會社

取締役社長 淺 野 良 三

遞信大臣

南 弘 殿

通商局長
外務省

通商局長
第二課



謹啓 陳者
米國所得税ニ關スル五月廿一日附御願書ニ基キ、本件經過大要及
ビ紐育囑託會計士ヨリノ報告書寫別紙ノ通リ提出仕候間御高覽賜
度候

昭和九年六月六日

敬 白

日本郵船株式會社

取締役社長 各 務 録 吉

遞信大臣
南 弘 殿

題 案

六月六日附日本郵船未信附屬書
「米國所得税ニ關スル經過大要」ハ
在米岸井代理大使宛様第一〇八号
ニ添付ス

公 信 案
外 務 省

E-0337



電話丸ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 宿直兼用
東京市丸ノ内郵船ビルディング 日本郵船株式會社

庶内省第一三五號

外務省通商局第二課

日本郵船株式會社

廿表田不二夫 殿

庶務課 和

昭和九年六月二十一日

拝啓 益々御清適奉賀候陳者米國所得稅件ニ付其後
紐育支店ノ往復電信並ニ譯文御參考ノ為メ茲許同封
御高覽ニ供候

敬具



Form No. T. 6 (Printed in Japan)

Pippon Hosen Kaisha

Telegram received in Head Office, Tokyo, on _____
from **New York (2)** dated _____

Code	Translation
	have made an error (in) pensions salaries seamen under reserve involving \$100,000 tax

(200. 49)

Form No. T. 6 (Printed in Japan)

Pippon Hosen Kaisha

Telegram received in Head Office, Tokyo, on 24/6/1934, 7.10 a.m. (34)
from **New York** dated 23/6/1934, 11.29 a.m. 55/54 (T)

Code	Translation
	Confidential
59	Referring to your telegram No.100 deficiency involve(s) tax approximate(ly) subsidy \$165,000 instead of \$285,000 because near sea Australian line eliminated charterage \$850,000 because (of) treasury used higher rate profit tax amortization in excess (of) \$300,000 because (of) disallowed entirely Nagato Maru Nagano Maru also uncompleted ship stop treasury

(200. 49)

不足額	計	アモルチゼーション	提供船料	補助金
一、三二九、五八三、五三	一、三一五、〇〇〇、〇〇〇	三、〇〇〇、〇〇〇	八五〇、〇〇〇	一六五、〇〇〇
	弗			弗

E-0337



Form No. T. 6 (Printed in Japan)

Nippon Yusen Kaisha

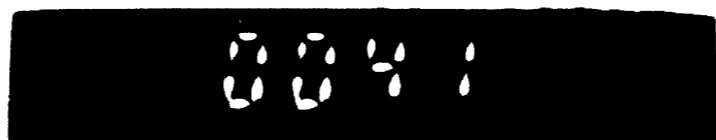
Telegram received in Head Office, Tokyo, on 27/6/1934, 7.50 a.m. (26)

from New York dated 26/6/1934, 16.20 (BN)

Code	Translation
61	Your teleg. No.1 foreign shipping companies have been settled Japanese lines delay due to almost entirely amortisation charter hire subsidy question

(20. 4 2)

E-0337



三三九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 宿直所川
 東京市丸ノ内郵局 ルディング 日本郵船株式會社

六月十二日附紐育支店未電(譯)
四七號……所得稅三十分對シ、三九、五八三弗五三仙ノ九十日
期限付不足通告ヲ受領セリ三月三十日附書面ニ關スル回答
何日郵送セリヤ返電ヲ乞フ
紐育支店宛六月十四日附電照(譯)
九五號……貴電四七號ノ所得稅額ハ利息ヲ包含スルモノナリ
ヤ書類ハ出来次第送附ス
六月十四日附紐育支店ヨリ返電(譯)
五〇號……貴電九五號ニ回答ス、利息ヲ含マズ、
一九二六年ヨリ六年六分ノ利息ヲ附加セラル
以上

()



Form No. T. 6 (Printed in Japan)

Nippon Hosen Kaisha

Telegram despatched from Head Office, Tokyo, on 14/6/1934
to New York

Code	No. 95	Translation
		Referring to your telegram No.47 income tax is it inclusive of interest documents will be sent to as soon as possible

(200. 49)

Form No. T. 6 (Printed in Japan)

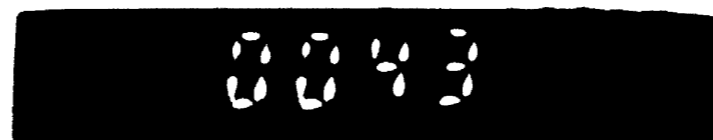
Nippon Hosen Kaisha

Telegram received in Head Office, Tokyo, on 13/6/1934, 7.42 a.m. (40)
from New York dated 12/6/1934, 4.16 p.m. 66/64 (T)

Code	Translation
	<u>Confidential</u> 47 have received income tax 90 days' notice (of) deficiency (of) \$1,000,000 \$329,000 \$583 53 cents for the 3 years telegraph when you mailed reply to referring to our letter of 30th March

(200. 49)

E-0337



Form No. T. 6 (Printed in Japan)

Pippon Hosen Kaisha

Telegram received in Head Office, Tokyo, on 15/6/1934, 7.30 a.m. (26)
from New York dated 14/6/1934, 16.05 25 (BN)

Code	Translation
	50 Replying to your telegram No.(-) our answer is no. 95 interest at (-)% per annum 6 will be added from (year) 1926

(200. 49)

E-0337



電話九ノ内(23) 代番番 三五二 (二三三) 番番番
 東京 日本郵船株式会社

<i>Special allowance of the crew of the requisitioned steamers</i>	
<i>From May, 1918 to June 1919.</i>	
<i>Tottori Maru</i>	<i>¥ 153,922.29</i>
<i>Awa Maru</i>	<i>200,711.58</i>
<i>Ceylon Maru</i>	<i>163,410.22</i>
<i>Rangoon Maru</i>	<i>125,540.50</i>
<i>Penang Maru</i>	<i>149,728.74</i>
<i>Kirin Maru</i>	<i>116,972.65</i>
<i>Jinsen Maru</i>	<i>82,260.25</i>
<i>Tosa Maru</i>	<i>177,337.90</i>
<i>Total</i>	<i>¥ 1,169,924.13</i>

戦時米國提供船員給料
 手率割増金當社割増額
 在米國政府ヨリ收入セシムル
 米國政府ヨリ收入セシムル
 四七一七一大冊一丸

E-0337

0045

電話丸の内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
東京市丸の内郵船ビルディング 日本郵船株式會社

昭和九年 月 日 會計課

米國稅法上提供船料ハ課稅所得ト見做サルベキヤ否ヤ
ニ就テ

一 米國所得計算上我社ハ提供船料ヲ如何ニ取扱ヒ來リタルヤ
千九百十七年以降米國戰時所得稅法ノ制定ヲ見我社ガ之ニ基キ納稅ヲ
ナズニ至リタル當時ニ於テハ米國稅法中外國會社ニ對スル規定ハ極メテ不明
瞭ニシテ殊ニ外國汽船會社ニ對シ特ニ規定セルモノ等元ヨリ無之只稅法
中外國會社ノ課稅所得トシテノ規定…… income from sources within
in the U.S. …… ナル文言ノ解釋ニヨリ米國內ニ於テ收入セル貨客運賃
ノミヲ米國內總收入トシ之レヨリ我社全體ノ總收入ニ對スル總經費ノ割合
ニヨリ割當算出セル米國內經費ヲ差引タルモノヲ課稅所得トシテ申告セル
モノニシテ提供船料ノ如キハ日本ニ於テ收受シ米國ニ於テ收入セルモノニ非ザレ
バ解釋上當然加算セザリシモノナリ
次デ千九百二十一年ノタコマ稅務官ガ「シヤトル」支店ニ臨檢シ取詢ベナシ

(1)

電話丸の内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
東京市丸の内郵船ビルディング 日本郵船株式會社

タル結果千九百十七年ヨリ二十年ニ至ル四ケ年間ニ對シ百六十万円余ノ納稅
不足アリトシ中央稅務當局ニ報告シタルコトアルモ之ガ原因ハ主トシテ我社
總支出中ノ船價切下、特別償却並ニ保險、大修繕等ヲ積立高ニヨラズ各
年度實際支出高ニヨルベキヲ指摘セラレタルニヨルモノニシテ我社ガ米國總收入
トシテ米國內ニ於テ收入セル貨客運賃ノミトセルニ對シテ別段觸ル、慮ナカ
リシモノナリ 之レ蓋シ當時トシテハ…… income from sources within
the U.S. …… ナルモ Income received within the U.S. ナルガ如ク
解釋セルニヨルモノナルモ万一 米國政府ヨリ受取リタリトノ理由ヲ以テ提供船料
ヲモ米國內總收入中ニ加算セラレ其他最悪ノ場合ヲ考慮シ計算セバ
追徴額ハ 四百万弗余ニモ及ブベク頗ル憂慮セラレタル處ナリ
其後米國稅務當局ガ外國汽船會社ニ對スル稅法規定ノ不備ヲ補ハム
ガタン千九百二十二年八月 Treasury Decisions 3359 即チ米國領海内
運賃日數ノ「プロラタレ」主義ニヨル計算方法ヲ發表シ若シ新計算方
法ニヨル改算書ヲ提出スル場合ハ旧計算方法ニヨル追徴ハ猶豫スベシトノ

(2)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 密直兼用
 東京市丸ノ内郵船ビルディング 日本郵船株式會社

意向ヲ示セルニ付直子ニ之ニヨリ改算ヲ試ミタルニ屢其結果ハ四ヶ年ヲ
 通計シ提供船料等ヲ米國內收入トセル最悪ノ場合ヲ考慮スルモ尚旧
 計算方法ニヨリ合算進徴セラル、ヨリモ有利ナリト判断セラレタルヲ以テ先ツ
 訴訟期限ノ至レルニ九百十七年度ニ付新計算ヲ基トシテ訴訟ヲ提起セリ
 其後米國稅務當局ノ妥協案ホニヨリ愈々新計算方法ノ適用ヲ認メラ
 レ會計士ノ末朝ヲ求メ調査報告ヲ作成セシメタル際ニ於テ提供船料ノ
 取扱方ニ付テハ多少ノ懸念アリシヲ以テ再三其意見ヲ記シタルモ會計
 士ハ提供船ノ提供セラル、ニ至リタル事情ニ徴シ且又稅法上ノ見解ニヨリ當
 然非課稅ノモノトシテ之ガ材料ノ蒐集サヘモ見合セタル次第ナリ
 而シテ今回計ラズモ米國稅務當局ヨリ追徴ノ通告ヲ受クルニ至リタルガ
 其項目トシテ提供船料ヲ以テ課稅所得トセル屢其理由ハ未ダ其全容
 ヲ詳ニセズト雖モ會計士ヨリノ通信ニヨレバ主トシテ提供船契約ノ本質ニ
 關スル法的解釋ニ基クモノ、如ク提供船ニ關スル特種事情ノ如キニ付
 テハ何等考慮ヲ擲ハザルモノ、如シ 從テ此等ノ点ニ付テハ更ニ會計士

(3.)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 密直兼用
 東京市丸ノ内郵船ビルディング 日本郵船株式會社

ニ對シ充分ノ材料ヲ供給シ對抗スルノ要アルベク更ニ別途ニ研究スルコト
 、セムモ茲ニハ專ラ稅法上ノ見地ヨリ検討ヲ試ムルコト、ス

ニ米國稅法中外國汽船會社ノ課稅所得ニ關スル規定ト

我々ノ所得

外國會社ノ課稅所得ニ付テハ米國稅法ハ

「米國內ニ於ケル資源ヨリ得タル所得ニ限ル」(Only the income from
sources within the United States)

トナシ如何ナル所得ガ之ニ該當スルヤニ付テハ一九一八年度稅法(See 233,
 Art. 550, Art. 91 参照)

「米國ニ住所ヲ有スル個人又ハ法人ニ對スル債權ノ利息、金ヅク法人ノ配當
 金、米國內ニ於ケル債物ノ製造取賣ニカ、ル利益金、米國內ニ在ル財産
 ノ貸貸料使用料、米國內ニ於ケル營業ヨリノ所得、米國內ニ存在スル
 銀行ノ預金利子、其他米國內ニ於ケル投資ヨリ得タル所得及米國內

(4.)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
 東京市丸の内區船橋二丁目 日本郵船株式會社

ニ於テ爲サレル勞務ヨリノ所得ト
 等ヲ列擧セリ
 即チ右ノ規定ニ於テハ專ラ米國領土内ニ於ケル業務ヨリ生ズル所得ノミ
 ニ付テ規定セムニ止リ外國汽船會社ノ如キ米國領土内外ニ涉ル運送業務
 務ヨリ得タル所得ニ付テハ之ヲ如何ニ取扱フベキヤハ明ラカニセザリシヲ以テ
 千九百二十一年度税法ニ於テハ所得ヲ
 一、米國內資源ヨリ得タル所得
 二、米國外資源ヨリ得タル所得
 三、一部米國內一部米國外ヨリ得タル所得
 ノ三種ニ區別シ各項ニ屬スル所得ヲ列擧シ更ニ(Acc. 217 (a) 参照)
 「一部米國內一部米國外ニ於テ遂行セラル、運送其他ノ業務ヨリ得タル
 收入、利益又ハ所得ハ一部米國內一部米國外ニ於ケル資源ヨリ得タル
 モノトシテ取扱フベシト
 トナシ次デ千九百二十二年八月 17 *Shipping Revision* 3389 7 以テ外國

(5)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
 東京市丸の内區船橋二丁目 日本郵船株式會社

運送會社 (*Foreign Transportation Corporation*) ニ對スル課税所得
 決定方法ヲ制定セリ之ニヨレバ
 「米國內ノ地莫ト米國外ノ地莫間ノ運送業務ニ從事スル外國會社ハ一部
 米國內一部米國外ノ資源ヨリ所得ヲ得タルモノトス」
 トナシ米國內ノ資源ヨリ得タル所得ノ計算方法ヲ示セル處其方法ハ頗
 ル複雑ニシテ此ニ簡單ニ記述スルヲ得ザルモ大體ノ骨子ハ米國關係
 航路就航船ノ全航海哩數又ハ航海日數ト米國領海内航行哩數又
 ハ日數トノ比ヨリ米國關係航路ノ收支ニ付キ米國內所得ヲ計算スル
 ニ下リ
 外國汽船會社ノ課税所得決定ニ關スル米國税法ノ大要ハ右ノ如クナルガ
 之ニ基キ我々が米國內ノ資源ヨリ得タル所得トシテ申告スベキ極メテ
 明瞭ナルモノハ
 一、前述ノ千九百二十一年度税法ニ所謂「一部米國內一部米國外ニ於テ
 遂行セラレタル運送業務ヨリ得タル收入ト或ハ千九百二十一年度

(6)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 密紙兼用
 東京市丸ノ内郵船ビルディング 日本郵船株式會社

Treasury Decision 3387 = 所謂「米國內ノ地且ト米國外ノ地且周
 ノ運送業務ヨリ得タル所得」トシテ本条ノ運送業務タル米國關係
 航路ノ收入ニ付税法所定ノ方法ニ基キ算出セル米國內所得及ビ
 一、前述ノ千九百十八年度税法第ニニ條及ビ全施行細則第九一條ニ列
 擧セル米國內所得トシテノ米國會社ヨリ受取リタル配當金及ビ米國
 内ニ存在スル銀行ヨリ受取リタル預金利子
 之ナリ
 三、提供船料ノ税法上ノ解釋
 併シテ今今回問題トナレル提供船料ニ付テハ税法上直チニ
 適用スベキ明ラカナル文言ナク疑問ノ存スル處ニシテ要スルニ備給契約ノ
 本質ヲ運送契約ナリト解スルカ或ハ貸借契約ナリト解スルカニヨリ税
 法上其取扱方ニ著シキ差異ヲ奏スベシ 即チ
 其一、提供船契約ヲ以テ運送契約ナリトスル場合
 會計士ヨリ未簡ニヨレバ今今回米國政府ハ提供船契約ノ本質ヲ運送

(7)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 密紙兼用
 東京市丸ノ内郵船ビルディング 日本郵船株式會社

契約 (Contract of Affreightment) ナリト解シ 從テ提供船料ハ貨客
 運賃ノ全額ニ取扱フベシトナスガ如シ
*the carriage merchandise and passengers; any between
 a safe port and the port in United States of America,
 and the ports in any part of the world.*
 ナレ文言アリ實際ニ於テモ 米國ヲ起 且トモ運送ニ從事シ居リタルモノ
 ナレバ税法ニ所謂「米國內ノ地且ト米國外ノ地且間ノ運送業務」ニ該
 當スベク從テ斯ク解釋スル以上米國關係航路ノ收入合稱税法所定
 ノ方法ニ從ヒ米國內所得ヲ算出課税所得中ニ加算セラル、モ亦止ム
 ヲ得ザルベシ
 尚提供船契約ハ日本ニ於テ締結セラレ且日本ニ於テ支拂ハレタル事
 實ヲ以テ非課税ノ理由トスルコトハ米國關係航路ノ貨客運賃收入ガ
 何處ニ於テ契約セラレ且何處ニ於テ支拂ハル、場合ニ於テモ米國內

(8)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 宣直兼用
東京市丸ノ内郵局 ルディング 日本郵船株式會社

ノ地賣ト米國外ノ地賣間、運送業務ヨリ得タル收入ナル以上一部米國
内所得一部米國外所得トシテ取扱ハル、ト全株提供船契約ヲ以テ運送
契約ナリトスル以上ハ全ク理由ヲナサザルモノト思ハル
只茲ニ一言スベキハ提供船契約ヲ以テ運送契約ナリトシ米國關係航路
ノ收入ト合算前送、千九百二十二年 Treasury Decision 3387 所定ノ方法
ニヨリ米國內所得ヲ算出スル場合ニ於テ、船舶ノ米國領海内航行運送
或ハ米國領海内ニ在リシ日數ハ計算上米國內所得ノ多少ニ關係ス
ル重大ナル要素ナルモ、提供船ノ場合ニ於テハ、船舶ノ米國領海内航行運
送又ハ米國領海内ニ在リシ日數ノ多少ハ全ク備船者ノ運用如何ニアリ
我社ノ全ク関知セザル慶ナシガ如斯納稅者タル我社ニトリ偶然ノ事實ヲ
以テ課稅所得ヲ計ルハ頗ル不合理ト考ヘラル、慶ニシテ要之千九百二十二年
ノ Treasury Decision 3387 ハ通常ノ航路經營ニヨリ運送業務ヲ目的ト
シテ立案セラレタルモノニシテ提供船ノ如キ備船契約ノ場合ヲ考慮セザ
リシモノナルベシ

(9.)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 宣直兼用
東京市丸ノ内郵局 ルディング 日本郵船株式會社

其二、提供船契約ヲ以テ借貸借契約ナリトスル場合
今回米國政府ガ提供船契約ヲ以テ運送契約ナリトセルニ對シ會計士ハ借貸
借契約 (Rentals) ナリトシ且之ガ契約ハ米國外ニ於テ締結セラレ且米國
外ニ於テ料金ヲ收受セルヲ以テ米國內ノ資源ヨリ得タル所得ニ非ズトシテ
之ニ對抗セル慶假リニ會計士ノ所論ノ如ク借貸借契約ナリトセバ稅法
上如何ニ取扱ハル、ヤニ付検討ヲ試ミルニ既述ノ如ク運送契約ナリトセバ
外國運送會社ノ收入ニ付特別ニ制定セル千九百二十二年 Treasury
Decision 3387 ノ適用ヲ受クルコト、ナルベキモ、借貸借契約ナリトスル一般
稅法ノ規定ヲ適用セル、ベク此其根本的相違ナルベシ
而シテ借貸料 (Rentals) ニ付テハ千九百十八年度稅法第ニミ條及ビ全施
行細則第九一條ニ外國會社ノ米國內資源ヨリ得タル所得トシテ列與等
セル内ニ
「米國內ニ於ケル資産ヨリ得タル借貸料使用料 (Rentals and royalties
from property in the United States)」

(10.)

ナル項目アリ更ニ千九百二十一年度税法ニ外國會社ノ所得ニ付規定セル處
 ニヨレバ外國會社ノ所得ヲ米國內資源ヨリ得タル所得ト米國外資源ヨリ
 得タル所得トニ區別シ更ニ各種ノ所得ヲ列擧シ其何レモ屬セザル所得
 ニ付テハ「セクレタリー」ノ承認ヲ得テ「コンミッショナー」ノ定ムル規則ヨリ米
 國內外ノ所得ニ區分スベシトナス規定アリ(See: 219 (a) 参照) 此内貸貸
 料ニ関シ米國內所得トシテハ

「米國內ニ存在スル資産 (Property located in the U.S.)」ヨリ生ジタル
 貸貸料、使用料、利子、但シ特許權、版權、秘密設計、暖簾、商標
 權及ビ其他類似ノ資産ヲ米國內ニ於テ使用シ或ハ使用スル特權ニ對
 スル貸貸料及ビ使用料ヲ含ム

ヲ與ケ米國外所得トシテハ資産が米國外ニ存在スルカ或ハ權利ヲ米國外
 ニ於テ使用スル場合ヲ指シ(See: 219 (a) (1) 及ビ (c) 参照)
 右ニヨレバ貸貸料が米國內所得ナルヤ否ヤハ資産が米國內外何レニ所在
 (Locate) スルヤニヨリ決定セラル、モノト云フベク從テ資産が船舶、如ク移

(11)

動スルモノアリテハ、如何ニ解釋スルカ明ラカナラズ、又右規定但書以下ハ專ラ
 權利等無形資産ノ貸貸料、使用料ニ付テノ規定ナルモ、假リニ船舶ノ場合
 ニ準用シ得ルモノトセバ提供船ノ場合ハ米國領海ノ内外ニ涉リ使用スルコト
 ニ對スル貸貸料トモ云ヒ得ベキニ付、米國內外何レニモ屬セザルモノトシテ「コン
 ミッショナー」ノ特ニ定ムル規則ヨリ一部米國內收入ト見做サル、コトアリ
 得ベキカ

會計士ハ提供船契約ヲ以テ貸貸借契約ナリト主張セルモ、果シテ貸貸借ナラ
 バ如何ナル條項ヨリ非課税トスルヤ、其所論ニ明ラカナラズ、只一般的ニ Income

from business within the U.S. ナル税法上ノ文言ノ解釋ヨリ、提供船契
 約が日本ニ於テ締結セラレタルコト及ビ料金を日本ニ於テ收受セルコト乃至
 ハ我社米國支店が提供船ニ付テハ何等ノ業務ニ携ハラザリシコト等ノ
 理由ヨリ米國內資源ヨリ得タル所得ニ非ズト立論セルモノナリ

蓋シ會計士ノ意圖ハ提供船契約ニシテ若シ運送契約ナリト解スル場合ハ
 本文既ニ述ブル處ノ如ク何等ノ疑モナク外國運送會社ノ運送業務ヨリ

(12)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 宿直兼用
 東京市九ノ内郵局一ルディング 日本郵船株式會社

得タル所得ニ関スル千九百二十二年 Treasury Decision 3387ノ適用ヲ受
 ケ所定ノ方式ニ從ヒ提供船料ノ一部ヲ米國內所得トシテ課税ヲ免ルベ
 カラザルニ付極力右規定ノ適用ヲ避クルタメ賃貸借契約ナルコトヲ主張シ
 而カモ賃貸借契約トシテハ特ニ明ラカニ船舶ノ場合ニ適用スベキ條項ナキ
 タメ税法ノ一般解釋ノ論争ニ誘導セムトスルモノ、如シ
 尙千九百十八年度税法施行細則(Cat. 92 参照)
 「米國ニ住所ヲ有セザル外國人ノ課税セラレザル所得」
 トシテ
 「米國內ニ代理店ヲ有セズ (Maintains no regular agency) 且米
 國內ニ於テ業務ヲ営マザル外國船主ノ米國ト外國間ニ於ケル船舶ノ
 運行ニ關シ收受スル備船料或ハ貨物運賃ニ對シテハ課税セズ」
 トアリ之ニヨル時ハ我社ノ如ク米國內ニ店舗ヲ有シ且業務ヲ営ミツ、
 アルモノハ課税セラレ、コト當然ナリト解セラル、モ之ハ備船料ヲ以テ運賃
 ト全額運送業務ニヨル收入ナリトセルニヨルモノニシテ提供船料ヲ賃貸借

(13)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 宿直兼用
 東京市九ノ内郵局一ルディング 日本郵船株式會社

ト解スル場合ハ本規定ノ適用ヲ受クベキニ非ズ 且本規定ニ對シ會計
 士ハ一我社ノ場合提供船業務ニ付テハ米國支店ハ何等閑與シ居ラ
 ザル事實ニ徴シ却而有利ニ本規定ヲ援用シ居レリ
 結
 要之ニ提供船契約ヲ以テ運送契約ナリト断定セラル、場合ニハ一部課
 税ハ免レザルモ賃貸借契約ナリト主張ヲ貫徹シ得ルニ於テハ尚論争
 ノ餘地アルモノ、如シ
 從テ何レニ解釋スルヤ頗ル重要ノコトナルガ之ニ関スル貨物課ノ意
 見ハ別紙ノ通りナリ
 以上

(14)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
東京市丸ノ内郵局、ルディング 日本郵船株式會社

一 提供船備給契約ハ所謂運送契約 (Contract of Appointments)
ナルカ賃貸借契約 (Contract of Rental) ナルカ

米國大藏省ガ提供船備給契約ヲ以テ Contract of Appointments トナス
論據ハ判然セザルガ別紙 紐音 末言ニヨレバ 提供船備給契約ヲ以テ吾
社ガ運送人トシテ米國船院ト賃客 運送ノ請負ヲナシタルモノトシ
備給料ヲ以テ *freight and warehouse charges*

originating within U. S. トナシ 從而該備給料ハ課税ノ目的ヲナ
スモノナリト論斷シ居ルガ如シ 然シテ定期備給契約ノ直接ノ主旨
ハ一定期間或條件ノ許ニ船船ヲ備給者ニ貸切リ其對價トシテ備給料
ヲ取得スルニアリ 即チ吾社 *Accountant* ノ言フガ如ク吾社トシテハ船船
ノ利用ヲ米國船院ニ提供シテ其對價ヲ得タルモノナリ (其提供ガ國
權ノ發動ニヨリタルハ前述ノ如シ) 而シテ船船ノ利用ハ當然運送行為ヲ
生ズルモ 其運送行為ハ船船利用權ヲ得タル備給者ノ利用行為ニ原
因スルモノト見ルヲ至當トスベク 專賣社船備給者タル米國船院ハ提

(15)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
東京市丸ノ内郵局、ルディング 日本郵船株式會社

供船ノ利用行為トシテ他ニ轉貸シ又ハ他ト運送契約ヲナセルガ如シ
回ヨリ定期備給契約ノ法律上ノ性質ニ関シテハ種々議論アリ或ハ之
ヲ以テ請負契約ノ範疇ニ屬スルモノトシテ備給料ヲ其報酬ナリトナシ或ハ
船舶賃貸契約(本邦ニ於テハ船舶賃貸借ハ船舶自船ノ賃貸借ニ
限ラル)ト同視シテ賃料ナリトシ或ハ右兩者ニ屬セザル特殊契約ナリトナ
スモノアルモ本件ニ関スル提供船備給契約ノ解釋並ニ議論ハ會社
Accountant ノ夫ニテ可ナルベシト思惟セラル

(11)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 宿直兼用
 東京市丸ノ内郵船ビルディング 日本郵船株式會社

「アモイチゼーション」ニ就テ	
一	「アモイチゼーション」ニ關スル我社従來ノ計算書
二	「アモイチゼーション」ニ關スル會計上ノ計算
(A)	「アモイチゼーション」ヲナシ得ル船給
(B)	「アモイチゼーション」ノ程度
(C)	其他ノ制限及結局「アモイチゼーション」トシテ計上シタル金額
(D)	我社實算トノ比較
(E)	「アモイチゼーション」ヲ米國內經營トシテノ割當
三	今回米國稅務當局ノ訂正
四	稅務官ノ決定理由
五	會計上ノ主張
	一七

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 宿直兼用
 東京市丸ノ内郵船ビルディング 日本郵船株式會社

昭和九年七月

會計課

「アモイチゼーション」ニ就テ

「アモイチゼーション」ニ關スル我社従來ノ計算書
 提供船料ノ課稅問題ニ關シ既ニ迷ベタル通り千九百十七年以降米國ニ於テ戰時
 所得稅ノ制定ヲ見 我社ガ之ニ基キ納稅ヲナスニ至リタル當時ノ計算ハ米國ニ
 於ケル荷客運賃ヨリ我社總收入ト總支出トノ比ニヨリ割當算出セル經費ヲ差
 引キタル 殘高ヲ課稅所得トスル方法ヲ採リタルヲ以テ我社ハ各年度ノ決算報
 告ニ基キ右總收入及總支出ヲ算出セル 屢各年度ノ總支出中ニハ多額ノ船價特
 別償却及船價切下金ヲ含ミ居リタリ
 然ルニ千九百二十一年「シヤトル」支店ニ於テ「タコマ」稅務官ノ調査ヲ受ケタル際 稅
 務官ハ右船價特別償却及船價切下金ハ積立高ニヨラス實際支出高ニヨルベキ
 モノナリトシ主トシテ此点ニ付訂正計算ヲナシタル結果百六十余万ノ納稅不
 足アリトシ尚船價特別償却及船價切下金ハ米國稅法中「アモイチゼーション」
 規定ニヨルベキモノトシ詳細ナル 詢書ノ提出ヲ要求セリ

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 密置兼用
 東京市九ノ内郵船ビルディング 日本郵船株式會社

若シ「アモイチゼーション」ノ規定ヲ適用セラレ、ニ於テハ大部分ヲ否認セラレ多額ノ税金追徴ヲ命ゼラル、恐アリタリ
 如斯當時ノ計算方法ニ於テハ「アモイチゼーション」ハ税額ニ多大ノ影響アリシモ偶々千九百二十二年(No. 3327)ニヨリ發表セラレタル米國領海内航行湮數日數ノプロラダ主義ニヨル新計算方法ニヨレバ假令税法通りノ計算ヲナスモ左程ノ影響ナキニ至リタリ 即チ千九百二十年會計士ノ末朝ニヨリ作成シタル計算書ニヨレバ船價償却ハ年五分ノ普通償却ノ外特別償却ハ之ヲ計上セズ尚船價切下金ハ千九百十七年四月六日米國ノ参戰ヨリ千九百十八年十月十日休戰ニ至ル期間内ニ造船契約ヲナセル甲谷院丸外五隻ニ限り「アモイチゼーション」トシテ計上シタルノミナルモ尚且四ヶ年度ヲ通ジ多額ノ返還ヲ受ケケル計算ヲ示セル處ナリ今米國稅務當局ハ會計士ノ計算ナリ更ニ「アモイチゼーション」規定適用ノ範圍ヲ狭メ甲谷院丸一隻分ノミヲ認メ其他ノ船舶ノ「アモイチゼーション」ヲ否認シ未リタル處今會計士ノ計算ト比較スルニ左ノ如シ
 ニ「アモイチゼーション」ニ關スル會計士ノ計算

(2.)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 密置兼用
 東京市九ノ内郵船ビルディング 日本郵船株式會社

「アモイチゼーション」ヲ得ル船舶
 千九百十七年以降千九百二十年ノ四ヶ年間ニ於ケル新造船及其造船契約日ハ左ノ如シ

第一表		船名	造船契約日	船名	造船契約日
甲谷院丸	一九一七年三月三日	リスボン丸	一九一九年三月三日		
長野丸	右 三月三日	ゼノア丸	右 三月三日		
長門丸	一九一八年五月二日	函館丸	右 三月七日		
グーバン丸	右 三月一日	室蘭丸	右 三月七日		
テラゴア丸	右 三月一日	盛岡丸	一九二〇年四月七日		
グカア丸	右 三月一日	リマ丸	右 三月四日		
マラツカ丸	一九一九年三月三日				

然ルニ税法規定ニヨレバ「アモイチゼーション」ヲ許容セラレ、船舶ノ賣却ハ
 一九一九年四月六日(米國参戰日)以後ニ製造若クハ獲得セラレタル

(3)

電話九ノ内(23) 代表番號 二五二一 二五三二 宿直兼用
 東京市九ノ内郵船ビルディング 日本郵船株式會社

ニ、現戰争ノ遂行ニ貢献スル人及貨物ノ運送ノタメ建造若クハ獲得セラレタルコト

トアリ依テ會計士ハ千九百十七年四月六日ヨリ千九百十八年正月十一日休戰ニ至ル期間内ニ建造セラレタル船舶トシテ甲谷院、長野、長門、ダーボン、ドラゴア及ダカア丸ノ六隻ヲ採リ他ノ船舶ヲ除外セリ

(B)「アモーチゼーション」ノ程度

次ニ如何ナル程度迄「アモーチイズ」トシ得ベキヤニ付テ税法規定ハ頗リ抽象的ナルガ要スルニ

一、戰前ノ船價ヲ基礎トシ

ニ、材料及勞銀ヲ考慮シ算定セル戰後ノ代船價格ノ割合ニヨル

コト、ナリ居ルヲ以テ會計士ハ我々戰前ノ建造船重量一屯當リ九十七円三十銭ヲ基礎トシ材料及勞銀指數其他詳細ナル材料ニヨリ重量一屯當リ一百三十八円迄ノ「アモーチイズ」ヲ適法且合理トセリ。之ニヨリ甲谷院丸外

(4)

電話九ノ内(23) 代表番號 二五二一 二五三二 宿直兼用
 東京市九ノ内郵船ビルディング 日本郵船株式會社

五隻ニ對シ「アモーチゼーション」トナシ得ベキ金額ハ左ノ如クトナリタリ

船名	重量屯数	建造原價	代船價格	「アモーチゼーション」額
甲谷院丸	八、三五〇	三、七四四、三三七	一、一五二、三〇〇	二、五九一、九三七
長野丸	六、三六九	二、九一九、七四二	八七八、九二二	二、〇四〇、八二〇
長門丸	九、〇一三	八、一六六、一〇一	一、二一四、七七二	六、九一一、三六九
ダーボン丸	一〇、六五一	七、四六七、七八二	一、四六九、八三三	五、九九七、九四四
ドラゴア丸	一〇、六一〇	七、六三三、三三七	一、四六四、一八〇	六、一六八、一四七
ダカア丸	一〇、六八九	七、二八九、九五四	一、四七五、〇八二	五、八一四、八七二
合計	五五、六八一	三七、一八〇、一八三	七、六五五、〇九四	二九、五二五、〇八九

(5)

(C) 其他ノ制限及結局「アモーチゼーション」トシテ計上シタル金額

尚「アモーチゼーション」ハ千九百十七年四月六日以前ノ割替船價ニ付テハ認めラレズ且實際船價支拂ノ却度之ヲ計上シ得ル規定トナリ居レルニ付結局會計士

電話九ノ内(23) 代表番號 二五二一 二五三二 宿直兼用
 東京市丸ノ内郵局 郵便局ビルディング 日本郵船株式會社

ノ各年度ニ割當計上セシ「アモイチセーション」ノ金額ハ左ノ如シ
 第三表

船名	千九百十八年度	千九百十九年度	千九百二十年	各船合計
甲谷陀丸	一九五〇・二二			一九五〇・二二
長野丸	一五四五・五四七			一五四五・五四七
長門丸	六九一・三六九			六九一・三六九
アラブ丸		四八四・八九六		四八四・八九六
グーバン丸		三六一・二九三		三六一・二九三
グカア丸		一一九六・四八三		一一九六・四八三
各年度合計	一〇、四〇七・九三七	九、六五九・七四〇	八、三二一・二二三	二八、三八八・八九〇

(D) 我社實算ト比較
 今試ミニ右「アモイチセーション」金額ト我社ノ實算トヲ比較スルニ左ノ如シ
 第四表

電話九ノ内(23) 代表番號 二五二一 二五三二 宿直兼用
 東京市丸ノ内郵局 郵便局ビルディング 日本郵船株式會社

船名	製造原價	切下後、價	A 重量	切下金	アモイチセーション	A/B 差引金額
甲谷陀丸	三七四四・三三七	六七六・四八三	八一〇・二	三、〇六七・七五四	一、九五一・〇一一	一一一六・七四三
長野丸	二九一七・七四二	五九八・一〇七	九三九・一	二、三二一・六三五	一五四五・五四七	七七六・〇八八
長門丸	八一六・一四一	八一八・七八一	九〇・八三	七、三〇七・三六〇	六九一・一三六九	三九五・九九一
アラブ丸	七、六三三・三三七	二、二六五・五六六	二〇〇・四三	五、五〇五・七六一	六、一六八・一四七	六六三・三六六
グーバン丸	七、四六七・七八二	二、一三五・一五六	二〇〇・四六	五、三三三・六二六	五、九九七・九四四	六八五・三一一
グカア丸	七、三八九・九五四	二、四二九・九一四	二〇〇・四七	五、一四七・〇四〇	五、八一四・八七二	六六七・八一三
合計	三七、一八〇・一八三	八、四九八・〇〇七		二八、六八二・一七六	二八、三三八・八九〇	二九三・二八六

即チ會計上ノ計算ハ右六隻ニ對スル我社切下金實算額ノ内ニ十九万余円ヲ、
 否認シタル結果トナレリ
 (但シ一九二八年十月十日休戦以降、造船契約ニカ、ル船舶七隻ハ「アモイチセーション」
 ノ資格ナシトシ、此切下實算額九百六十余万圓ハ最初ヨリ除外セラレタルコト
 既述ノ通りナリ)
 (E) 「アモイチセーション」ヲ米國內經費トシテノ割當

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 留置兼用
 東京市九ノ内郵便 郵便局 日本郵船株式會社

以上ノ如クニシテ算出セル「アモイチゼーション」ヲ米國內經營トシテ割當ツル
 方法ハ所謂 *Joint Basis Basis* ニヨルモノニシテ即チ
 「會社全船船ニ付各船毎ニ算出セル重量屯数ト各年度ノ使用日数トノ積算合計」
 ト
 「米國關係航路各就航船毎ニ算出セル重量屯数ト米國領海内ニ在リシ
 日数トノ積算合計」
 トノ比ニヨル
 之ニ依リ算出セル米國內割當額左ノ如シ

第五表

年度	船名	總噸數	米國內割當額	備考
千九百十八年度	甲谷陀丸	一九五・〇一	一三・〇三	今由 稅務官ハ此分ミテ認ム 後後參照
	長野丸	一五四五・五〇七	九六・六七	
	長門丸	六九一・三六九	四三・二九	
計		一、〇、四、〇、七、九、二、七	六五・〇、九、九、五	

(8)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 留置兼用
 東京市九ノ内郵便 郵便局 日本郵船株式會社

年度	船名	總噸數	米國內割當額	備考
千九百十九年度	アラゴア丸	四八四・九六四	三〇・四一八	
	グーバン丸	三六一・四二九	二二・六七八	
	ダカア丸	一九六・四八三	七五・〇五七	
計		九六五・九七四	六〇・五九六	
千九百二十年度	アラゴア丸	一、三、一、九、一、八、三	七、一、一、七、七	
	グーバン丸	三、三、八、三、六、五、一	一、二、八、六、一、一	
	ダカア丸	四、六、一、八、三、八、九	二、四、九、一、八、八	
計		八、三、三、一、二、三、三	四、四、八、九、七、六	
累計		二八、三、八、八、八、九、〇	一、七、〇、五、九、三、五	

(7)

三、今回米國稅務當局ノ訂正
 (A) 千九百十八年十月十日休戦日ニ於ケル未完成船舶ニ付テハ「アモイチゼーション」
 ヲ認メザルト

甲谷陀丸外五隻ノ竣工日左ノ如シ

第六表

船名	竣工年月日
甲谷陀丸	一九一七 七 七
長野丸	一九一七 五 二一
長門丸	一九一八 六 二七
アラゴア丸	一九一九 一 〇 七
ダーバン丸	一九一九 一 二 二
ダカア丸	一九二〇 三 二 一

即チ之ニヨリ先ヅ であらむ丸以下三隻ノ「アモーチゼーション」ヲ除外セリ

(B) 更ニ休戦日迄ニ完成セル船舶ト雖モ休戦日迄ニ米國トノ通商ニ從事

セザリシ船舶ニ付テハ之ヲ認めザルコト

各年度ニ於ケル甲谷陀丸、長野丸、長門丸三隻ノ米國寄港關係ヲ見ルニ左ノ如シ

電話丸ノ内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
東京市丸ノ内郵局 郵便 二五二一 二五三二 二五三四

日本郵船株式會社

(10.)

第七表

千九百十八年度

船名	次号	前航帰着日	港名	本航帰着日	港名	寄港米國港名
甲谷陀丸	ニ	一九一七 年 月 日	神戸	一九一七 年 月 日	神戸	沙市
長門丸	三	一九一七 年 月 日	神戸	一九一七 年 月 日	神戸	沙市
長野丸						寄港セズ
甲谷陀丸	五	一九一八 年 月 日	甲谷陀	一九一八 年 月 日	横濱	紐育
長門丸	ニ	一九一八 年 月 日	神戸	一九一八 年 月 日	神戸	沙市(八年十月十一日着)
長野丸	三	一九一八 年 月 日	アライ	一九一八 年 月 日	神戸	紐育
長野丸	五	一九一八 年 月 日	甲谷陀	一九一八 年 月 日	横濱	紐育
甲谷陀丸	六	一九一八 年 月 日	甲谷陀	一九一八 年 月 日	神戸	ボストン

電話丸ノ内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
東京市丸ノ内郵局 郵便 二五二一 二五三二 二五三四

日本郵船株式會社

(11)

電話九ノ内(23) 代表番 二五二一 二五三二 二五三四 留直線用
 東京市丸ノ内郵局 ルディング 日本郵船株式會社

船名	次号	前航帰着日	港名	本航帰着日	港名	寄港	米國送名
甲谷陀丸	六	一九一八年八月一七日	甲谷陀	二〇二二年二月二日	神戸	神戸	阿波丸
長門丸						寄港セズ	
長野丸	六	一九一八年七月二十五日	甲谷陀	一九二二年三月三日	神戸	神戸	阿波丸

而シテ甲谷陀丸、長野丸、長門丸三隻ノ「アモイチゼーション」ハ千九百十八年度ニ計上シアル。屢此内、長野丸、長門丸二隻ハ全年度ニ米國郵便航路ニ從事シ居ラザルニ付、甲谷陀丸ノ「アモイチゼーション」ノミヲ認メタルモノナルベシ
 (第五表参照)

(13.)

電話九ノ内(23) 代表番 二五二一 二五三二 二五三四 留直線用
 東京市丸ノ内郵局 ルディング 日本郵船株式會社

四 税務官ノ決定理由

以上ノ如ク今回税務官ハ會計士ノ算定セル「アモイチゼーション」内

一、千九百十八年十月十日(休戦日)ニ於ケル未完成船舶及ビ

一、更ニ休戦日迄ニ完成セル船舶ト雖モ休戦日迄ニ米國トノ通商ニ

從事セザリシ船舶

ニ對スル「アモイチゼーション」ヲ否認セル屢千九百十八年度税法第三四條ニヨレバ

(a) 現在ノ戰爭遂行ニ貢獻スル人及物資運送ノタメ千九百十七年四月

六日以後ニ建造若シクハ獲得セラレタル船舶ノ場合ニ於テハ、納稅者ハ

其支拂ヒタル船舶ノ原價ニ付「アモイチゼーション」トシテ適當ノ控除ヲ得

得ベシ

(b) 外國會社ノ場合ニ於テ(a)項ニ於テ認ムル「アモイチゼーション」ノ控除ハ其

控除ガ米國內ニ於ケル資源ヨリ得タル所得ニ關係ヲ有スル限度ニ

於テ之ヲ認ムベシ

而シテ米國內外ニ於ケル所得ノ資源ニ對シ適當ナル割當テハ

(13.)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
 東京市丸ノ内郵局 郵便局内 日本郵船株式會社

「セクレタリー」ト承認ヲ得テ「コミッションナール」定ムル規則ニヨル
 トアリ

從テ稅務官ノ見解ハ

外國會社ニ對シテモ右(a)項規定ヨリ「アモイチゼーション」ハ之レヲ認
 ムルモ(b)項規定ヨリ米國內所得ニ關係ヲ有スル限度ニ於テノミシ
 ヲ認ムベキナリ故ニ「アモイチゼーション」ハ米國內通商ニ從事シ米國內
 ノ資源ヨリ所得ヲ得タル船舶ニ限リ其控除ヲ認ムク休戦日迄ニ
 完成セザリシ船舶及ビ休戦日迄ニ完成セル船舶ト雖モ休戦日迄ニ
 米國內通商ニ從事セザリシ船舶ハ戰争中何等米國內資源ヨリ所得
 ヲ得タルモノニ非ザレバ此等ノ船舶ニ對シテハ「アモイチゼーション」ヲ認ムベキニ非
 トスルモノ、如シ

然ルニ稅法規定ニヨルトキハ船舶建造ノ目的ガ戰争遂行ニ貢獻スル人及ビ
 物資ノ運送ノタメナレバ可ナリ必ラズシモ結果ニ於テ事實上戰争遂行ニ
 貢獻セルヤ否ヤハ問フ處ニ非ズ從テ稅務官ガ何故ニ休戦日ヲ限界ト

(14)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
 東京市丸ノ内郵局 郵便局内 日本郵船株式會社

セルヤ其根柢明ラカラズ會計士モ此處ニ付テハ說明ヲ加ヘ居ラザルモ察
 スル處船舶ノ如キハ例ヘバ戰争遂行ノミヲ目的トシテ建設セラレタル軍需品
 工場ノ如キト異リ必ズシモ建造ノ目的ガ戰争遂行ニ限ラレバ非ザレバ事實上
 上戰争遂行ニ貢獻セルヤ否ヤヲ以テ「アモイチゼーション」許否ノ標準トセルモ
 ノニ非ザルカ

尚右ニ關聯シテ茲ニ注意ヲ要スルハ會計士ノ素簡ニヨルバ米國內會社ノ大多
 數ニ對シテハ休戦日以前ニ未完成ノ施設ニ付テモ特ニ「アモイチゼーション」
 ヲ認メ得ラ我々ノ如キ外國會社ニ對シテ差別的取扱ヲナスモノナリト云フモ
 或ハ米國內會社ノ場合ニ於テ休戦日以前未完成ノ施設ニ付テ特ニ「アモ
 イチゼーション」ヲ認メラルハ右ニ述ブルガ如ク施設ノ建設ガ明ラカニ戰争遂
 行ノミヲ目的トスル場合ニ限ルニハ非ザルカ此辺ノ事情ハ充分取調アルニ非
 ザレバ此事實ヲ以テ對抗スルモ其效ナカルベシ
 要之ニ稅務官ノ解釋ノ如シトスレバ

「ハ」であらう。だがほん九、九かある三隻ノ内「ハ」は休戦後ナリトハ

(13)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
 東京市丸ノ内郵船ビルディング 日本郵船株式會社

云へ千九百二十一年度ニ於テ米國關係航路ニ從事シ居レルモ、
 だか形丸ノ二隻ニ至リテハ千九百二十一年迄ハ米國關係航路ニ從事シ居ザル
 ラ以テ到底稅務官ノ容認スル處トナラザルベシ
 一甲谷院丸、長門丸、長野丸三隻ノ内甲谷院丸ハ休戰前ナル千九百十八年度中ニ
 米國關係航路ニ就航シ且其收入及ビ「アモイチゼーション」共ニ千九百十八年度ニ
 計上セラレ居ルヲ以テ今回稅務官ノ認ムル處トナリタルモ、長門丸、長野丸ハ休
 戰前ニ米國向ケ起賣地発航セルモ米國寄港ノ際ニハ最早休戰トナリ居リシ
 モノニシテ從テ其收入ハ千九百十九年度ニ計上セラレ「アモイチゼーション」ハ千九百
 十八年度ニ計上セラレ居ルガ如ク其年度ヲ異ニセルヲ以テ除外セラレタルモノト思ハル
 然レ乍ラ此ニ隻ハ免ニ角ニモ休戰前米國關係航路ニ就航シ居ルモノナレバ
 一應會計士ノ注意ヲ喚起シ交渉セシムルコトニ致度(以上ニ付テハ募セマ
 參照ヲ乞フ)

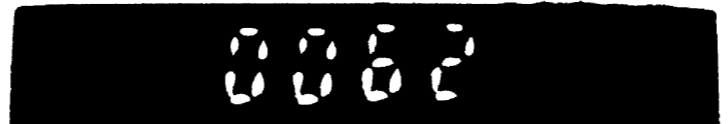
電話九ノ内(23) 代表番號 二五二一 二五三二 二五三四 宿直兼用
 東京市丸ノ内郵船ビルディング 日本郵船株式會社

五、會計士ノ主張

以上稅務官ノ見解ニヨレバ「アモイチゼーション」ノ適用範圍ハ極メテ狭少ノ
 モノトナルガ之ニ對シ會計士ハ別途ノ主張ヲナシ居レリ
 即チ會計士ハ「アモイチゼーション」ノ控除ハ店費等ノ如ク *Quadruple Expenses*
 (或ハ稅法ニ所謂 *General Deductions*) ナレバ船舶ガ米國トノ通商ニ從事シタル
 ト否トヲ問ハズ 總收入割ニヨリ米國內ニ割當テ以テ控除シ得ベキモノト主
 張セリ
 之ニヨルトキハ長野丸、長門丸ノ「アモイチゼーション」ハ少クトモ控除シ得ルコ
 ト、ナルモ稅務官ハ前掲外國會社ニ對スル「アモイチゼーション」規定ノ
 解釋ニヨリ之ヲ承認セザルモノ、如シ
 (以上ハ千九百三十一年五月一日附會計士ノ未簡ニヨリタルモノナルモ今回之ニ
 關シテハ何等ノ申越ナシ)
 以上

(17)

(18)



電話九ノ内(23) 代表番號 二五二一 二五三二 宿直兼用
 二五二二 二五三四
 東京市丸ノ内郵政ビルディング 日本郵船株式會社

昭和九年七月

會計課

補助金ニ就テ

既往ニ於ケル我社米國所得ノ計算上米國內總收入トハ米國領土内ニ於テ
 收入セシ荷客運賃ノミナリト解シ居リタルハ既ニ提供船料ニ關シ速ベタル
 通りナリ從テ補助金ハ日本政府ヨリ日本ニ於テ收入セシモノナレバ之ヲ
 總收入中ニ加算セザリシハ言フ迄モナク更ニ千九百二十二年 T.D. 3337 ニヨル新
 計算方法ニヨリ會計士ヲシテ申告書ヲ作成セシメタル際ニモ其意見ニヨリ
 米國關係航路收入ヨリ除外セルモノニシテ其内千九百十七年度分ハ既ニ
 申告通り決定セラレタルニ不拘今回稅務官ハ其決定ノ主意ヲ變シ千
 九百十八年以降ノ年度ニ付之ヲ課稅所得ト見做シ納稅不足通告ノ
 一因トセリ。

一、稅務官ノ見解ト稅法上ノ根據

會計士ヨリノ來簡ニヨレバ稅務官ハ

「補助金ハ荷客運賃同様船船ノ運用ニヨリ生ジタル所得ニシテ

(1)

電話九ノ内(23) 代表番號 二五二一 二五三二 宿直兼用
 二五二二 二五三四
 東京市丸ノ内郵政ビルディング 日本郵船株式會社

船舶建造ノタメ受入レタルモノニ非ズ

即チ補助金モ亦運送業務ヨリノ所得ト解スルモノ、如シ

蓋シ運送業務ヨリ得タル所得ト解スル以上既ニ提供船料ニ關シ詳細
 解説ヲ試ミタル通り千九百二十二年 T.D. 3337 外國運送會社ニ對スル課稅所得
 決定方法ニヨリ其運送ガ米國內ノ地点ト米國外ノ地点間ノ運送ナル
 限リ其所得ハ收入地ノ如何ヲ問ハズ一部米國內・計米國外ノ資源ヨリ
 得タルモノト見做サレ所定ノ計算方法ニヨリ課稅ヲ免レ得ザルベシ

二、會計士ノ主張

之ニ對シ會計士ハ補助金ガ運送業務トシテノ所得ニ非レント及其特異
 性ヲ強調シ居レル處其所論大要左ノ如シ

- a. 補助金ハ米國內ニ根源ヲ有スル荷客ノ運送ニ直接ノ關係ナク
- 國家的政策上日本ニ於テ日本政府ヨリ受取リタルモノナルコト
- b. 從テ運送契約ニヨルモノニ非ザレバ荷物ノ種類・分量・荷物積卸
 乃至運賃ノ收受等運送業務トシテナスベキ業務ニ何等關係

(2)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 宿直兼用
東京市丸ノ内郵政ビルディング 日本郵船株式會社

ヲ有セザルコト
C 税法上ニ所謂運送業 (Transportation business in Japan) トハ
荷客ノ運送ヲ意味シ又業務ハ荷客運賃ノ收入ヲ目的トシ補助
金收受ヲ目的トスルモノニ非ズ從テ運送業務ノ原價或ハ經費ハ
荷客運送ノ結果生ズルモノニシテ決シテ補助金ヲ得ルタメニ生ズ
ルモノニ非ザルコト
(註) 千九百二十二年法律第百三十九號 外國運送會社ニ關スル課稅所得計算
方法ニヨレバ米國關係航路 航船ノ米國領海内航行運賃及
日數ニ基キ先ツ米國內經費ヲ算出シ其經費ガ米國關係
航路總經費ニ對スル比ヲ米國關係航路總收入ニ乘ジ米國
内收入ヲ算出スルコトナリ居レル處古米國關係航路ノ經費
及之ニ基キ算出セラレタル米國內經費ハ荷客運送ノタメニ生
タルモノニシテ補助金ニ何等關係ヲ有セザル故補助金ヲ運送業
務ヨリノ所得ト見做シ右法律第百三十九號ニヨル計算方法ヲ適用スルハ

(3)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 宿直兼用
東京市丸ノ内郵政ビルディング 日本郵船株式會社

甚タ不合理ナルコトヲ云ハントスルモノナルベシ
C 千九百二十二年法律第百三十九號 外國運送會社ニ對スル所得計算方法ニ關ス
ル規定ニ關聯シ發表セラレタル處ニヨレバ「假令外國船船ガ米國
領海内ニ入り或ハ米國港ニ寄港スルコトアルモ米國內所得ヲ生ズベキ
業務ヲ營マザル場合(單ニ燃料、用水積取ノ如キ)其米國內日數
運賃ハ米國所得算出上關係ナキモノトストアリ 即チ此取扱方
ニヨルモ業務トハ如何ナルモノヲ指スヤ明ラカナリ
必要之補助金ハ運送業務ヨリ得タル收入ニ非アルヲ以テ外國運送
會社ニ關スル規定ヲ適用スベキニ非ズ從テ外國會社ニ對スル
課稅ノ一般的规定タル千九百十八年度稅法第百三十三條(六)項
規定ニヨルベキモノナルモ本條ハ外國會社ノ課稅所得ヲ米國內
資源ヨリ生ズル所得ニ限定シ居レルヲ以テ本條ヲ以テ外國政
府ガ經濟上若シクハ營利的見地ト云ハムヨリ寧ろ政治的社會
的見地ヨリ爾餘ノ諸國トノ海上交通ヲ維持スルヲ第一義ト

(4)

電話九ノ内(23) 代表番號 二五二一 二五三二 留直兼用
 東京市丸ノ内郵 〇ルディング 日本郵船株式會社

シテ下附スル補助金ニ對シテ其適用ヲ擴大スルノ何等ノ根據ナシ

結

稅務官ノ見解及之ニ對スル會計士ノ主張ハ右ノ如クナルガ要スルニ
 提供船料ニ關スル稅法上ノ解釋ニ於テ速ベク通リ補助金ヲ運送業務
 ニヨリ得タル收入ト解スル場合ハ課稅ヲ免レ得ザルベク及之運送業務
 ヨリノ所得ニ非ズトセバ稅法中適確ナル規定ナキタラ補助金ノ本質ニ關
 スル解釋ト稅法ノ外國會社ニ對スル課稅原則 *Income from services*
within the U.S. 適用如何ニカ、リ尚爭ノ餘地ヲ存スニト、ナラン
 尚稅務官ハ補助金ハ船舶建造ノタメ收受スルモノニ非ズトセルモ左記
 補助法規定ノ精神ハ船舶ノ改善並ニ建造ヲ助成スルモノナリト解シ得
 ベキカ

遠洋航路補助法 第三條 第三四條

一 補助航路ニ使用スル船舶ハ總噸數三千屯以上、速力十二節

電話九ノ内(23) 代表番號 二五二一 二五三二 留直兼用
 東京市丸ノ内郵 〇ルディング 日本郵船株式會社

以上ニシテ船齡十五年未滿ノ鋼製汽船ナルトラ要シ船齡五年ヲ
 超ユルモノハ補助額ヲ進減セラレ(即チ補助ヲ受クル者ヲシテ其船舶
 ヲ常ニ若齡ニ保タシムルヲ目的トス)

ニ、外國製造ノ船舶ハ原則トシテ補助ヲ受クルコトヲ得ズ、但チ船齡
 五年未滿ニシテ特ニ認可ヲ受ケタルモノハ補助金ノ半額ヲ支給サル
 (即チ補助法ハ内地ニ於ケル造船ヲ獎勵スルノ主旨ナリ)

以上

(6.)

(5.)

電話九ノ内(23) 代表番號 二五二一 二五三二 宿直兼用
 二五二四 二五三四
 東京市九ノ内郵政ビルディング 日本郵船株式會社

昭和九年七月

會計課

提供給料ノ課税所得トスベキニ非ズト主張スル實際ノ理由

專ラ税法ノ見地ヨリシテ提供給料ヲ課税所得トスベキヤ否ヤニ付テハ別紙ニ之レガ検討ヲ試ミタリ。從テ茲ニハ提供給料契約締結ノ経緯或ハ事情ニ基キ課税所得ト見做スベキニ非ズトスル主張ヲ列擧セハ凡ソ左ノ如シ

一、備給契約ハ隨意契約ニ非ラザルコト

提供給ハ米國政府ト吾社トノ隨意契約ニ基クモノニアラズシテ曰米政府間ノ給船供給ニ関スル取極メニ基クモノナリ。即チ米國ハ参戰後極度ノ給船欠乏ニ苦ミ大正七年二月以降吾政府ニ對シ約六拾萬重量噸ノ給船調達方ヲ要請スル屢下リタリ。吾政府ハ聯合與國ノ一員トシテ對敵共同策應ノ主旨ニ基キ其ノ要請ヲ容レ約拾五萬重量噸ノ給船ヲ民間訪會社ニ命ジ茲本邦米國大使館ノ手ヲ經テ給船院ト定期備給契約ヲナス形式ノ許ニ米國政府ニ提供セル次第ナリ。這ハ專ニ米國戰時ノ急需ニ應ジタルモノニシテ當時米國政府ハ本邦政府ニ對シ本件ニ就キ深厚ナル謝意ヲ表シ

(1)

東京市九ノ内郵政ビルディング 日本郵船株式會社
 電話九ノ内(23) 代表番號 二五二一 二五三二 宿直兼用
 二五二四 二五三四

米レリト言フ。而シテ吾社ニテ提供命令ヲ受ケタルモノハ八隻ノ重量噸五萬噸九千五百八十五噸ナリシガ之ヲ國內的ニ見レバ本邦政府ノ徵用權ノ發動ト見ルヲ得ベク船舶ノ提供ハ素ヨリ吾社ト米國ノ營業行爲ニ非ラザルコト論ナシ。此ノ事實ハ大正七年(一九一八年)四月二日附遠信大臣登吾社宛戰航第四四九號船船使用命令書ト第一項

其會社ハ本船ヲ亞米利加合衆國ニ引渡シ其ノ運用ニ関スル一切ノ事項ニ付政府ノ指揮ニ從ヒ同國政府ト協定スベシ
 及ビ提供給備船契約書ノ文言

in pursuance of the arrangements embodied in the memorandum exchanged by the American Embassy at Tokyo with the Imperial Japanese Department for Foreign Affairs for Foreign Affairs

等ニ徴シ極メテ明瞭ナリ
 二、提供給ニ付テハ吾社利益ヲ犧牲トセルコト

(2)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 宿直兼用
 東京市九ノ内(船場) ルディング 日本郵船株式會社

我社提供船ノ傭船料ハ聯合阿ノ協定セル國際傭船料率即チ四〇志六片
 (當時ノ換算率ハ $\frac{1}{10}$ 乃至 $\frac{1}{12}$ ニシテ約一八四七乃至一八四九ニ於テ是レニシテ
 之ヲ邦貨ニ換算シ上東京ニ於テ支拂ヲ受ケタルモノナルガ當時(一九一八年)本邦
 ニ於ケル同型船ノ長期市場率ハ最低三〇四最高四五円ニシテ提供船料率
 ハ此ノ最高率ノ半額ニモ及バズ最低率ニ比スルモ尙約拾余円ノ低位ニアリ
 危険率多ク加之極メテ割安ナル傭船料ヲ以テ多數ノ船主ヲ提供スルガ如キ
 ハ一營利會社ノ業務トシテ爲シ能ハザルモノナルト自ラ明ラカナルベシ
 今假リニ提供船ヲ内地ニテ貸船シタリトセンカ社知ハ勿論最高率ヲ得ベ
 カリシナルモ茲ニ右最高最低率ノ平均三八円ヲトリ計算セバ吾社が取得シ
 得ベキ傭船料ハ提供船相當期間ニ對シ約三、四〇六千円ノ傭船料ヨリ
 收受セル傭船料(二、三、四〇六千円)ニ比シ約一、一〇六千円ノ差額アリ以テ吾社
 ノ犧牲ノ如何ニ大ナリシカヲ知ルニ足ルベシ
 三、提供船運用ニ關シ我社ハ何等閑與セザリシト
 (a) 提供船ノ指揮者

(3)

電話九ノ内(23) 代表番號 二五二一 二五三二 二五三三 二五三四 宿直兼用
 東京市九ノ内(船場) ルディング 日本郵船株式會社

傭船契約書ニヨレ傭船者即米國船院ガ利用權獲得者トシテ第一
 次ノ指揮者ナルト明瞭ニシテ契約書前文末尾ニ
*in such lawful trades, between..... as the Charterers or
 their agents shall direct on the following conditions:*
 又第九條及び第十條ニ
*that the Charterers shall have permission to appoint
 or supercargo who shall accompany the steamer
 and see that voyages are prosecuted with the utmost
 dispatch.
 that the master shall be furnished from time to
 time with all requisite instructions and sailing
 directions.*
 ト規定シ居レリ 但シ提供船ハ時ニ他ニ轉貸セラレタル模様ニ付其指令

(4)

電話九ノ内(23) 代表番 二五二一 二五三二 二五三四 宿直兼用
 東京市九ノ内郵(ビルディング) 日本郵船株式会社

ノ實際指揮者ハ明瞭ナラズ 而シテ *Supercargo* 泰船ノ場合ハ多ク
Military Officer ナルガ如シ此ノ場合實際上ノ指揮者ハ *N. S. Jones*
 ナリト看ルベシ
 (A) 提供船ノ行動ガ吾社在米支店ニ関係ナカリシコト
 提供船ノ行動ニ関スル指揮者ハ上述ノ通り俾船者タル米國船院又ハ
 同院ヨリ轉貸ヲ受ケタル者ニシテ本船ノ港費噸稅荷役費水先料ハ固
 コリ燃料鐘飲水共備船者ニ於テ負擔供給シ居リ且ツ備船者ハ其費用
 ニテ本船ノ代理店ヲ設置スルコトニナリ居リシ爲メ(備船契約第一條参照)船主
 ハ本船運用上別ニ船主代理店設置ノ必要ナク吾社ハ當時沙市及紐育ニ店
 舗ヲ有シ居リタルモ右店舗ノ存在ト提供船トハ何等關係ナク從テ支店又ハ
 其在勤員ガ提供船ノ爲メニ其備船期間中特ニ *Service* ヲ提供スル要ナ
 ク又之ヲ提供シタリトスル記録ナシ
 四 提供船ノ用途
Flag Boat = 依レバ他ノ會社(*Sub-charter*) サレタル場合ハ大抵米國海軍用石

(5)

電話九ノ内(23) 代表番 二五二一 二五三二 二五三四 宿直兼用
 東京市九ノ内郵(ビルディング) 日本郵船株式会社

炭智利硝石等ノ輸送ニ從事シ米國陸軍御用船 (*Army Transport Service*)
 トシテ大西洋ヲ往復シ軍需品又ハ軍隊ノ輸送ニ當リタルモノナレバ全ク戰爭ノ遂
 行ノタメニ使用サレタルモノト言フベク米政府ハ其稅法ニ於テ斯ル様徑ニ對
 シテハ除外(例 *Exemption*) ヲ認メナガラ提供船ノ如キ重要ナル戰事
 ノ役目ヲ果シタルモノニ對シ *War* = 備船契約書ノ解釋ノミヲ以テ其備船料
 ニ課稅セントスルハ矛盾モ甚シキモノナリ
 以上

(6)

庶内省第一六號

外務省通商局第二課

日本郵船株式會社

廿表田不二夫 殺

昭和九年六月二十三日

拜啓會、御清榮奉賀之旨

陳者米國所得稅一件、付左記書美御参考ノ爲
茲許同封御高覽之供矣

敬具

記

一 紐育會計士 Price Water house & Co.ノ末翰譯文

一 提供船之対スル命令書

一 米國所得稅法沿革

以上

電話九ノ内(23) 代番 二五二一 二五三二 二五三四
ルテ、日本郵船株式會社

(一九三四年三月三十日付紐育支店来稿)

一 所得稅一件

會計士 Price Water house & Co.ヨリ本日書面入手致シタル付寫作成並
新加封郵送ス 就本事件ヲ調査シ上 The United States Board of Tax Appeal
(米國租稅審査局)ニ対スル上申準備書美早便郵送付上ノ度

尚本書面ノ内容次ノ通り

(1) Ammunition、備船料及補助金ノ件

(2) The United States Board of Tax Appeal (米國租稅審査局)ニ対スル上申準備
必要ノ追加書美覽書

(3) 米國船舶院ノ提供船之割シ各船舶院下締結シタル備船契約書
之關係了書美之付テノ覽書補足

(4) 備船料及補助金之割シ會計士 Price Water house & Co.ヨリ我社辯護士
ニ宛テ書面寫

紐育支店宛會計士 Price Waterhouse & Co. 書面寫

(一九三四年三月三十日付)

一 備船料ノ件

昨日付幣給付則レ左ノ一項ヲ昨日付覺書補足ノ分ニ差シ加ヘラレ度

(17) 米國船船院ノ提供船又ハ其内ノ一部ノ船船ハ備船契約ノ
ヲ航海中護送セシムルヤ或ハ又ハ護送船トシテ使用セシムル
本項今朝貴方へ送付セシ覺書補足中ニ挿入決レトナリタリ

又上

一九三四年三月二十九日付紐育支店宛會計士 Price Waterhouse & Co. 書面寫

一九二八年ヨリ一九二二年迄ノ九月三日迄

一ヶ年分米國所得税及利得税ノ件

去レ一月二十二日付幣給付末貴社所得税ノ関スル情勢ハ全ク予期セザル方面ニ轉回ヲナスニ至リ、東洋汽船會社ハ令社ノ關係アリテ數年
間ノ税金ニ付米國大藏省ヨリ正式ノ通知ヲ受ケタルハ令様正式ノ
通知ハ貴社及大阪商船會社ニモ差シスベク用意シ在リ由ナリ。
右通知ハ一九二六年ノ Revenue Act 二七四條及二八三條ノ規定ニ基キ貴
セラル、モノニテ不足税告知書 (Notice of deficiency) ナリ、而シテ本通知ニ付
テハ通知ノ日ヨリ六十日以内ニ The United States Board of Tax Appeal (米國租税審査
會)ニ對シ不服ノ申立ヲナシ得ルモノナリ。

東洋汽船會社ニ對スル告知書ハ大藏省ニ於テ左記ノ重要ナル三頁ニ
付令社ニ不利ナル取扱ヲナセリ。

3. (1) Amortization ハ全盤否認サレ、併シ貴社ノ場合ハ全盤之ト異ナリ。大藏省

ノ意嚮トシテ一九一八年十月十日ノ休歇日及今日以前ノ完成セラ
レザリシ船舶或ハ米國向航海ヲ開始セザリシ船舶ヲ付シテノミ
テ許サレヌノ如シ

(2) 米國船舶院ヘノ提供船ノ關シ支拂ヲ受ケ居備船舶ノ令衆國ノ各
港ニ寄港シ以テ管ハ運輸業ヨリ生ズル貨客運賃同様課税所得
トシテ取扱ハレタリ

(3) 日本政府ヨリ交付セラレタル補助金ハ貨客運賃收入同様課税所
得トシテ取扱ハレタリ

○ *Amoy Station* アモイステーション
Amoy Station 許サレシ大藏省ノ決定ハ去レ一九三一年七月十日付ヲ以テ貴方
通知ヲナシタル大藏次官 *Bullantine* 氏トノ會見ノ結果ト一致セズ然レ會見
ニ次テ一九三二年九月三日 *Valuation Division* 會合アリソノ際 *Amoy Station* 一九一八
年十月十日以前令衆國ノ港ニ向ヒ航海ヲ開始セシカ又ハ令衆國ニ於テ
航海ニ從事シ居タル船舶ミテ一九一七年四月六日より一九一八年十月十
日

日ノ間ノ建造セラルカ又ハ所有ノ歸スル船舶ヲ付シテノミテ一九一八
年十月十日當日建造中ノモノニ付シテモ之ヲ認メラズモ其金額 *(allowance)*
ハ一九一八年十月十日以前ノ於テ全額ヲ超過セザルモノトスルキ一ノ決定
セラレタリ大藏省ハ東洋汽船會社ノ場合ニ許サレシ *Amoy Station* 未完成
ノ船舶ニ對スルモノニテ右ノ取扱ヨリシテ貴社ノ場合一九一八年十月十日
以前ノ完成セラレタル船舶ニ付シテ如何ナル程度迄 *Amoy Station* ヲ認ムヨリ窺知
スルヲ得ズ

貴方ト大藏次官 *Bullantine* 氏トノ會見ニヨリ取扱ハ訴訟ニテ解決ヲ求ム
カルキ事トナラヌト時期シタルモノニテ貴方ノ指方ニ於テ讓歩ヲ表示セシ
モノナリキ 茲ニ大藏省ハ今ヤ右取扱ヲ認メサレヌノ如ク正規ノ有無
知ラザレシヨリ之ニ對シテハ *Board of Appeal* 上申ニ得ルモノトセリ
貴社ハ不足税若シテ未納ノ場合ハ完成セラレタル船舶ノ *Amoy Station*
認ムルニキ未完成ノ船舶ニ付シテ之ヲ認メザルモノトナレシ
令衆國トシテ得ルモノト大藏省ハ令衆國內ノ納税者ハ設備未完成ノ

場合假令工場建物等が一九一八年十一月五日より南洋建設
 中にて未完成一時ト呈ス *Quarantine* 認メテ之ヲ 然レテ外國ノ納税者
 加ヘ様ノ取扱フ事ナリト予盾セシメト思ハル
 大藏省ハ今衆國内資源ヲ生ジテ所得ノ關係ナキ場合ハ *Quarantine*
 控除ヲ許サレシムルノ取ルト同時ニ戰爭中未完成ナリシ船舶ヨリ何
 等所得ハ生セザリ付未完成船舶ノ圍ニ限リ *Quarantine* ヲヨリ控除スル
 控除金ヲ事ナシ 更ニ大藏省ハ *Quarantine* 控除ハ船舶ノ自給的ニ生
 成スル所ノ *Quarantine* 對シテ控除トスル操テト所定トシテ其論議ヲ強
 調セリ 吾人ノ立場ハ是レト異リ *Quarantine* 比スベカラズト云
 フアリ 蓋シ *Quarantine* 戰爭遂行援助ノ爲メニ財産ヲ獲得又ハ建設
 ノ衛生ニ於テ格外ノ高價トシ費用ノ負ヲ認メ專ラ該會ニヨリ許サレシメ
 ニテ單ニ財産ノ自給的破損ノ廢滅等關係ヲ有スルモノニ非シトナリ
 未完成ノ諸設備ニテ而モ是等ノ諸設備ハ戰爭中所得ヲ生ジス
 ヤ否ヤニ不拘内國納税者ニ付シテ之ヲ許容シ外國納税者ニ付シテハ

之ヲ採テ取扱フ許サレシムル吾人ノ不可解トスル所ナリ

貴方ハ未だ大藏省ヨリ何等書書ヲ接シ居ラズ以テ新ノ材料トシテ今
 衆國所得稅及利得稅ノ稅額ヲ計算スルノ基礎ヲ示シテ是ヲ以テ若シ
 貴社ノ場合ニテハ大藏省が完成船舶ノ付貴社ニ當テ權利アリト認
 ズルハ最大限度ノ *Quarantine* 許容シ 未完成船舶ニ對シテ之ヲ認容
 セトスル稅額ハ約八〇〇〇ト見テ之ヲ本稅ハ三トシテ一九一九年度
 分ニ對上セラルベシ 然レドモ前述ノ通り大藏省ハ完成船舶ニ對シテ之ニ
 過酷ナル取扱ヲナスヤニ知ラズ斯クナク稅額ハ更ニ増加ヲ見ルベシ

Charter Kue 提供船舶備船料

衆國船舶院ヨリ各領セシ備船料が米國內資源ヨリ生ジテ所得中
 如何ニ部分ヲ構成スルカ大藏省當局が據テ以テ之ヲ所ノ論據ヲ述ベ
 タル書面ニ貴方未だ接セザル次第ナリ 然レドモ此ノ問題ハ後述ノ論議
 セラレタル所ニシテ *Charter Kue* ハ課稅ノ目的ヲ得ズトスル論議ニ後立ルベシト信
 理由ニ之ヲ認メシ要領書ヲ提出シテ大藏省ノ *General Council* 代表者ノ

言ひしハ彼ノ決定ハ備船契約ノ解釋ニモトシテ其本質ハ貨物契約ニ
 非ズ寧ロ運送契約(Transportation Contract)ヲ構成スルモノトナリ而シテ運送契約ナリト
 七六該收入ハ米國內ニ於テ船舶ノ直接運用ニヨリ生ズル普通ノ運送收入ト
 異ラズトス。此等ノ付テハ右方ノ辯護士 *Quilley, Hayden, Egan, Clark & Hunter* 等
 一九三四年二月二十七日付書面ニテ「茲許加討致し置キテ」
 若シ受領セシ *Chattel* 幾分カニ對シ課税スルベキモノト云ハ之ニ對シテ備
 船期間中生ズル船舶ノ修繕料等々ニ對シテ亦然トシテ若シ修繕料等々
 付テ生ズルニシテ斯クノ如キ修繕料備船期間中ノ修繕日數ニ對スルハ米國內ニ
 於テ日數ノ割合ニ基キ計算スルベキモノナリ。又是等ノ額ハ米國內
 及今衆國外ノ收入ニ付修繕收入ノ割合ニ考テ慮スルベキナリ。而シテ米國內
 船院ヘノ提供額ニ關スルニ計算材料書等ハ一九二七年右方ノ代表者
 「之ヲ受取ル」(日本ヲ持テ修繕料等)蓋シ正當ト信スル修繕料等ノ上必
 要ト認メザリシモノナリ。大藏省當局ハ現在爲シテ「計算」ニシテ
 記書等之ヲ爲税額ニ過大ノ金額ニ達スレ。從テ *Quilley* 等ノ如ク

(米國租稅審査局以下單に *ITA* ト稱ス)ニ對スル上申準備ノ爲ニ右
 書等ノ中選付テ置キテ「但シ若シ *Chattel* 等ノ問題ハ結局尙
 有利ニ決スル場合ニハ費用ノ莫ク免規スルノ要ニ至ラズ」
Chattel 等ノ米國內所得税額ハ八三五〇〇〇弗ナリ而シテ一九一八年度
 三七〇〇〇弗、一九一九年度ハ四六五〇〇弗ナリ

○補助金

日本政府ヨリ交付セラルル補助金ハ米國內ノ修繕料等生ズル所
 得ノ一部ヲ構成スルヤ否ヤノ問題ハ一九二一年度分迄大藏省ハ「
 取調ナシ」大藏省トシテ補助金ハ普通運送貨物收入ノ直接
 船ノ運用ニヨリ生ズル所得ナリト見解ヲ持シ補助金ハ船舶運送
 料等ノ受取ルモノトシテ「*Chattel*」等ノ會社ノ修繕料等受取ルモノ
 ニアラストシ。依テ右方ノ補助金ハ米國內 *Chattel* 等ヨリ得ル收入ノ如何ニ
 分テモ構成スルモノナラストス。理由ヲ要領書ニ認メテ右方ノ提言ニ
 前記辯護士 *Quilley* 等 右方書面ニ其旨ヲ説明し置キタリ。

東洋汽船會社に對する告知書に於て大藏省の補助金全部の
 分衆國航路より收入トシテ取扱ヒ居ル地貴社に對する告知書に於
 テモ貴社補助金たるは改設航路、濠洲航路等之關係なきハ
 不納其全部ヲ加算セテ之を據據ナリ。後大藏省の補助金を關
 する明細書ヲ提出シ居るハ以テ新申請準備ノ爲メに右明細書ヲ
 整理置カシ度

大藏省の告知トシテ北米航路補助金ノヲ計上スト務セラルルハ
 金額ハ前記三航路全部ノ補助金ヲ加ヘテ計算セラルルハ以テ
 其基礎より税額ヲ算出スル時ハ恐ラウ左ノ通り

一九一八年	一七〇,〇〇〇 弗
一九一九年	七〇,〇〇〇 弗
一九二〇年	四五〇,〇〇〇 弗
合計 二八五,〇〇〇 弗	

トナルベレ
 10. 北米航路に對する補助金之關し明細書提出セラルトキハ大藏省ハ

其訂正に應ズル下疑ヒナク從テ補助金問題に包含セラルル税額ハ北米
 航路補助金補助金全部に對する割合を以テ上記税額に適當と考
 慮ナストナシ

以上ノ說明より是等諸問題に關し米國税金に對する予想額ヲ述ベ
 其精密な計算ハ未ダ計上し得ザルモノト了解セラル度
 法律ノ規定に依テ外國會社に適用セラルルハ其營業又ハ投下資本
 より見タル利益に付令様ノ状態ヲ示セル内國會社ノ代表的ナルノラ
 選ビ其平均税率ヲ適用スルモノト大藏省ハ其比較スルハ内國會
 社ノ名稱ヲ明示セザルノミナラズ斯ル會社ヲ選擇スルハ其方格ヲモ
 從テ外國會社ノ所得額が決定セラルル限り大藏省ハ比較スルハ會
 社ヲ選ハルベシ。其方格シテ貴社に對シ如何ニ税率が適用サレハヤ
 目下ノ所全然不明ナリ。本書面中、述ベタル稅額ノ單ニ其方格適用
 セラルルモノト考ルルハ稅率ニ基キ計算セラルルモノニテ其額ハ一、二〇〇、
 〇〇〇 弗ナリ。若シ *Charter hire* 及補助金が課稅セラルルハ且 *Subsidy* が

Ballantine 氏トノ協議ニ後ツテ控除セラルル場合ニハ約一〇〇、〇〇〇ギルヲ
 賦課ルベシ 故ニ現在ノ迎貴社ニ付スル大蔵省ノ「不足税告知
 (Deficiency Notice)」ニ於テハ約一〇〇、〇〇〇ギルヲ示スベキモ精確ニ税額
 ハ茲ニ三週間内ニ覆送セラルルベキ告知書ヲ受領セザルハ不明ナリ。
 上述ノ数字ニ極メテ漠然トシタル予想ニ過カズシテ数字ヲ以テ金額ヲ
 示スベトハ躊躇セラルル事ナリトモ是ラ以テ貴社税金ノ問題ニ
 非常ニ重大ナル相違ヲ来セルトモ付其被入念ヲ與フベトシタルニ過キ
 カルナリ。

以上ノ次第ニテ亦方トシテハ貴社ノ事實ヲ知ラシム且又貴方
 指圖ナクシテ是レ以上ノ手續ヲ採ルベク得ルハ状態ニ立至リテ不
 税告知書(Deficiency Notice)令覆送セラルル後ト申モ新設
 税額ヲ以テ之場ノ繼續スルベク可御ナリ 茲レトモ斯レハ女懐
 決の方格ハ普通ノ場合令納税者及政府ノ両者共ニ譲渡ヲナスノ
 必要アリ、而シテ貴社ノ場合ニ於テハ税額及前記三項ノ間ニ論
 12.

據ノ關係上貴方特別ノ指圖ヲ得カズ特局ニ手続解決ニ効果的
 ナク譲渡ヲナシ得ズ 更ニ法規ニヨリ解決ヲ待トシテハB.T.A.ニ上申
 スルカ又ハ一應租税ヲ支拂ヒ後ニ其返還請求訴訟ヲ為スルナ
 共其何レニモ決定途ニハ数年間ヲ要スベク訴訟費用相違金
 額ニ違フベシ 而シテ承継ノ通リ敗訴ノ場合ニハ最後ニ決定セラルル
 追徴税額ニ付シ一九二六年二月二十六日ヨリ其支拂日迄年六分
 ノ利子支拂ヲ要スル、且是レ其併シテ為替換算上率ノ問題モ
 考慮セザルベカラズ 假リニ二十年後解決ヲ見セトスモ今日ノ為替ト
 比較シテ何レカ有利ナルベキヤ疑問ナリ
 B.T.A.ニ付スル新領準備ニ於テ貴社ノ有利ナルベキ項目ハ後ヲ要ホ
 ナラズトシテB.T.A.ニ懸一切ノ各案件ト摺合セラルル事案ニ付検討決定
 ナシ之ニテ貴社租税ヲ再決定スベシ 租税拂戻ノ可能性ハ一ニ懸
 前記ノ三大問題ニ付シB.T.A.カ有利ナル決定ヲ下スベキヤ在リ而シテ
 其拂戻額ニ付シ後末大蔵省ト打合セタル金額ト多大ノ相違アリト
 13.

思ひん、Amurza Jacon / 親如何、より左にせしむレ。此方、貴社が、T.A. 上
 申、より果して、實質的拂戻、多ク得、キ、ト、述、カ、レ、非、カ、シ、テ、
 上、申、場、合、に、改、メ、テ、貴、社、に、全、後、金、由、題、ヲ、再、檢、討、セ、ラ、ン、ニ、ミ、レ、キ、ト、
 明、カ、セ、ト、ス、セ、ル、ノ、リ、規、則、に、極、メ、テ、導、向、的、ニ、シ、テ、規、則、通、リ、証、據、書、
 ヲ、提、出、ス、ル、ノ、ト、ハ、頗、ル、難、シ、ク、御、務、部、ノ、通、リ、書、方、り、會、計、士、ト、シ、テ、依、頼、
 者、ノ、租、後、問、題、ヲ、Q. A.、ニ、提、出、ス、ル、ノ、手、続、ハ、之、ヲ、ト、ス、又、其、代、理、人、ト、シ、テ、提、
 出、ス、ル、ノ、為、ニ、東、洋、汽、船、會、社、ニ、テ、既、ニ、受、領、セ、ラ、レ、タ、様、ノ、告、知、書、
 ハ、恐、ラ、ク、茲、ニ、三、週、間、内、ニ、普、通、セ、ラ、レ、ル、組、上、Q. A.、ニ、對、シ、テ、上、申、ハ、告、知、書、
 ノ、日、附、ニ、テ、方、十、日、以、内、ニ、テ、為、サ、レ、ル、可、カ、ラ、カ、、而、シ、テ、此、方、ト、シ、テ、極、力
 上、申、茲、ニ、証、據、準、備、ノ、為、辯、護、士、ヲ、援、助、ス、ル、ト、テ、格、マ、カ、ン、モ、ナ、リ、若、シ、
 本、件、に、關、シ、貴、社、の、考、慮、上、執、行、ニ、テ、別、個、ノ、手、段、ニ、訴、ル、場、合、ニ、モ、直
接、或、ハ、辯、護、士、ヲ、通、ジ、ウ、候、シ、テ、下、度
 貴、社、に、茲、ニ、覽、書、並、ニ、覽、書、補、足、ヲ、封、シ、テ、貴、社、本、社、ヨ、リ、中、東、島
 致、度、追、知、報、告、ヲ、列、記、セ、リ、右、レ、書、方、及、貴、社、報、護、士、が、貴、社、ヲ、充

15
 分、了、解、シ、代、表、ス、ル、系、の、總、行、公、票、ニ、有、之、之、、追、知、報、告、ヲ、ク、シ、テ、
ハ、サ、レ、ト、ス、ル、に、付、ミ、テ、急、ウ、配、慮、ス、下、度
 又、上

U.S. Board of Tax Appeal に対する上申準備の必要を
追加書類見書

一 米國船船院への提供船

米國船船院への提供船八隻 次ノ如シ

南真丸、鳥取丸、錫蘭丸、仁川丸、徳育丸、音程丸、
阿波丸、止佐丸

米國船船院への提供船八隻と各船の付左ノ書要必要ナリ

(1) 船名

(2) 米國船船院への引渡シタル日附及引渡港名

(3) 米國船船院より會社へ返還引渡シタル日及港名

(4) 前記引渡より返還ノ日迄ノ間ノ船ヲ寄港セシ港名、寄港年
月日及寄港年日ヲ示ス表

前述ノ書要ノ上トシテ會衆國內ノ船ニ滞在セシ日數ヲ確實ニ上テ
テ必要ナル之ニ基キ改メテ會社ノ為ニ有利ニ之ニ對シ見立セシト

16

スルモノナリ。右船船中特ニ長期間特定ノ港ニ滞留セシモノアラハ出
来ルル其夫ヲ明記セシ度、例ハ本島南丸が一九一八年十一月五
日翌年二月二十日迄海難ノ為ニ延滞ノ警告船セシモノカ如キ其
例トス。若シ百六日ノ期間ハ米國內滞留期間ニ加算サレシカ米國
内滞留ヲ生ズル所得額ニ増加スルシ。而モ此百六日ノ期間ヲ加
フルモノト適當ニアラハルベシ。蓋シ備船料々其期間ニ對シ米國船
船院より交付シ受ケザリシヲ以テナリ。

更ニ全院ニ提供期間中是等諸船カ如何ナル任務ニ使用セラルルカ
例ハ本島南丸輸送ノ役事セシヤ又ハ軍隊輸送ニ使用セラルルヤ及何港
ト何港ト間ヲ航行セシヤ等ノ報告書提出セラルルヲ特ニ希望ス。
一 概檢終了後次航ノ開始ハ前航揚荷ヲ完了シ、
上記必要報告事項第四ノ項シ何港ニ於テ一航檢が完了セシヤ、
何港ニ寄港ハ單ニ中間寄港ナリシヤ、出来得ルハ運送セラルル
荷物ノ積戻ヲモテサレハ好都合ナリ。

17

大藏省ノ主張、凡テ備艦期間中艦船、今衆國內港間ヲ航行シ居ルモノトシテノ推斷、甚クシテ、若シ此ノ推斷ガ事實ニ反スル場合艦船ニ該艦ニシテ南港ト西港トノ各港間ヲ航行シタリトセカ、今艦船中ノ備艦料、大藏省ノ推斷ニヨリテモ課税所得多ク得ルモノトシ、備艦契約書ニテ備艦料、一月重量吨一吨ニ付四〇志六片ノ取極メナカ、艦船院ヨリ交付セラルル金額、右等事ニ基テ討算スルニ超過セリ、即チ今艦船院ヨリ金額セル金額ニ備艦料以外金額モモノアホカホレ、出テ得ルハ其説明ヲモ附セラレ度

一 補助金

一九一七年十月一日ヨリ一九二四年九月三十日ニ至ル各年度、補助金交付ノ事ナシ艦船名、各年度ニ於ケル各艦ノ補助金額、補助金交付アリシ際各艦ノ何レノ航路ニ使用セラルヤ、付テ精確ニ報告アリタリ、前記ノ如ク北米航路、西海航路、濠洲航路、對シ各航路ノ航路別補助金額ノ明細、其他ノ航路ニ於テ受領セシテハ其航路ノ

18.

補助金額ヲモ承認致度、現在大藏省ノ提呈シテ書類ニ單ニ當該年度ノ補助金額修額ヲ示スル過ヨリテ艦船又ハ航路ノ別シテ詳細ニ記載セシメシ、事實上必要ナル各航路別ノ補助金額ノ決定アリテ、其事、各艦ノ金額ヲ先ツ確シ、然レ後、各航路ノ合計額トシテテ呈スルベシ

又日本航路補助金及貴社ニ交付スル補助金ノ規定セル後、貴社各艦ノ各艦威見ノ解釋ヲ得ルニト重要ナリ、尙解施行セシ是レ補助金一九一〇年ノ法律ナリト思フモ修正セラレトキ、右修正後威見ノ解釋ノ提出必要ナリ、一九一七年十月一日(期初)一九二四年九月三十日(期末)ノ間、於テ新補助金制度セラレ又ハ修正セラレトキ、右法律及修正ノ間、右艦威見ノ解釋ヲ送付アリ度、貴社ト政省トノ間、何等カノ契約存シ、該契約上、右期間ノ補助金ノ關係、右期間、該年度ノ補助金額、影響アリトキ、其契約ノ權威見ノ解釋、亦必要ナリ

日本所得税より補助金を課税所得として取扱ひ、控除せしむる
若し並らばトせん其苦勞を権威に歸せし補助金を日本政府より
課税せしむるト事實を以て重要とし之を以て

補助金を船舶運用に對して交付せしむるに非ざれば其建造に關し
又建造の條件として交付せしむるトするに非ざれば其建造に關し
必らず是より度し。例へば補助金を取得し政府と爲るに當り貴社が
新船の建造及び取得の義務を負ふに場令あり。一九二四年九月三十
日以後より其の效果少きを以て補助金制度は当初より是れ
極メテ重要ならざるべし。

補助船舶の郵便物無料輸送ノ義務を負ふべし。其事實の明かニ補
助金一部は郵便物に對して支拂せしむるべしトするに非ざれば其
然らば如何せん数量、郵便物ノ輸送せしむるに補助船舶が補助金下附
ヲ受ける輸送せしむる郵便物に對し何種ノ金款ヲ得たりしや。控除ノ
方法ありべし。郵便物輸送に關係重要事次之に關し資料は後ヲ見

材料の可し

若し貴社が貴社中心に補助金を關し通曉する人より補助金を交金
ノ意圖、目的之を遂行ノ精神等ノ説明ト爲る日本税務補助金ノ
歴史運用に關し其述ヲ作成し得べし。其ノ有利トす。補助
金ノ意圖、目的に關し之等ノ長、通曉し得る。其ノ有利トす。其ノ
也。政府ノ役人ノ控除ヲ得るに當り其ノ有利トす。又之に當り其ノ有利トす。

米國船舶院トノ備船契約書ニ関シ必要ナル書類
覽書追加

(一) 一九一七年九月三十日ヨリ一九二一年九月三十日迄ノ米國船舶院トノ
締結セシ備船契約書寫

(二) 是等備船契約書ニ關スル下記明細書

✓ (四) 備船契約書第一項ノ掲ケタル米國船舶院ト日本入所有汽船ニ關スル
契約書ニ關シ日本外務省ト駐日米國大使トノ間ニ交換セザル書類
寫

✓ (六) 貴社ノ自費的ニ備船契約ニ應ジルヤ、又ハ政府ニ從テ應ジルヤ
之ニ應ジルヤ

✓ (七) 備船契約書ノ條件、日本政府ヨリ令ガラシタルモノナリヤ、又善
ノ商取引ノ如ク貴社自身ニテ交渉セルヤ

(八) 備船契約ニ關シテハ貴社單獨ニ取扱ハシムヤ、又ハ他ノ日本汽船會社
ト共ニ取扱ハシムヤ

22

(九) 以上諸事ニ關スル便復書翰アリ其寫係付ノ事

(三) 備船期間中各船ノ行動ニ關スル左記明細書

(四) 寄港地、入港日等ヲ示ス明細書

(六) 航海日誌ノ寫ヲ添付スル事(航海日誌英文、アラビアトキハ
譯ノ事)

(四) 提供船ノ行動ニ關スル實際トノ指揮者

(五) 提供船ノ燃料、石炭、謝度品等入ノ實際ノ圖表ニ付

(六) 入渠、投錨、揚碇等、修繕(必要ノ際ニ於ケル)ニ實際ノ圖表ニ付

(七) 左ノ事ニ關シ如何ナル命令又ハ指圖カ為セラルヤ

(八) 提供船ノ管理、取船ニ付貴社ニ於テ如何ナル命令又ハ指圖
為セシヤ

(九) 本備船契約(書)基キ貴國政府ハ貴社ニ對シ又ハ貴社船長ニ對シ
如何ナル命令又ハ指圖ヲ為セシヤ

(十) 米國船舶院ハ貴社又ハ貴社船長ニ對シ如何ナル命令又ハ指圖

23

ヲ為セシヤ (其旨趣海防誌ニ記載ナシトシ)
何者物上棄人ハ貴社又ハ貴社船長ニ對シ如何ナル命令又ハ指圖カ
ニ為サシムルヤ

(ハ) 前記(七)ノ各場合ニ於テハ指圖書寫

(九) 船物上棄人ハ實際ニ提供船ニ乗船セシヤ若シ然リトセハ

(a) 右ノ上棄人ハ令衆國陸軍將校ナリシヤ又ハ海軍將校ナリシヤ

(b) 如何ニ在權限ヲ実行セシヤ

(四) 備船契約カ支拂々々ニシテ陸所得後ノ支拂ニ關シ何等カノ意見書
ヲアリシヤ

(二) 所得後ノ支拂ニ關シ何等カ其後運會セラレシヤ 然リトセハ

(四) 其書面寫條付ノ章

(三) 令衆國內ノ貴社支否又ハ其在勤員ニ提供船ニ關シ何等カ
セシヤ 然リトセハ

(a) 如何ニ 詳細記載セシ度

24

(三) 船型噸數・運力等ニ於テ貴社提供船^{ト謂フ}ノ其多寡ニ於テ
期間備船ノ船ハ何程ナリシヤ

(a) 一九一八年ニ於テ如何

(b) 一九一九年ニ於テ如何

(c) 一九二〇年ニ於テ如何

(四) 貴社株主ニ對シテ定期的報告ニ於テ備船契約ニ關シ何等カ
ノ意見書^{意見書}ガ發表サレシヤ

(a) 然リトセハ其旨趣條付ノ章

(五) 貴社取締役會ニ於テ備船契約ニ關シ何等カ決定ヲ記録
シテモナリシヤ

(a) 然リトセハ其旨趣條付ノ章

(六) 備船契約ニ關シ何等カ命令又ハ貴社帳簿上如何ニ處理シ
又記録セラレシヤ

(a) 右ノ金額ハ各級路ニ割支テラレシヤ

25

(四) 以上、補助金収入、貴社帳簿上如何に取扱ふべきか
 (五) 各帳簿、如何に記帳すべきか
 (六) 一括計上すべきか

(一) 貴社、享有せし補助金、歴史明細書
 (二) 貴社、補助金、享有開始、時期
 (三) 貴社、申請、内容、要領
 (四) 補助金、交付、内容、要領、時期
 (五) 是等、内容、記載、及、内容、等、一切、写
 (六) 補助金、交付、対し、貴社、為、すべき、取扱、如何

(一) 貴社、享有せし補助金、歴史明細書
 (二) 貴社、補助金、享有開始、時期
 (三) 貴社、申請、内容、要領
 (四) 補助金、交付、内容、要領、時期
 (五) 是等、内容、記載、及、内容、等、一切、写
 (六) 補助金、交付、対し、貴社、為、すべき、取扱、如何



一 韓護士 (Mrs. Jane Walker, Maura, Washington, Wash., D.C.) 及び、
Meady, (Rearmy) 及び、
(一九三四年二月二十七日付)

一 日本郵船會社ノ備船料並補助金ノ件

自一九一八年至一九二〇年頭記會社が取得せる備船料並補助金ノ圍シ法律上米國が認許せざるを得たるは余ノ主張ヲ支持するに特別ノ條項を付し與會ノ本年二月二十三日付當り持テ了る事

余々是ノ條規ヲ卒業之正解シ合在ノ米國內源泉ヨリノ所得ト見惟々之に、課税所得ヲ決定するヲ適切ナリ認ム。吾人ノ意見ニ對シテ一般約定裁ヲ求ムルニ非スシテ一九一一年ノ條令上所得稅分付後 (Federal Income and Profits Tax) ノ納稅義務ヲ生ズル事其後ハ如何進ヲ得ラレカヲ確シテ之ヲ實踐トスル可カラズ。既ニ知悉ニ通リ極會ヲ認認令ノ合意ニ於テ外國内社ニ對シテ此

國内源泉ヨリノ收入ヲ以テ課税所得トスル方針ヲ採リ(一九一八年令ニ三三三節)

一九二〇年十一月三日 *Ceking Attorney General, Peking* 及、
書中ニ述ベラレタル通り本節ノ目的トスル所ハ明ニ米國內ノ所得ト對シテ課税せらるル在リ、
裁 (大藏省決定三二二號四C.B.二八〇) 又此意見書ニシテ米國ヲ起上トスル條令ノ輸送 (Article) により、
以上一英國郵船會社ハ(仲立人又ハ代理者) 米國內ノ業務ヲ行ハニ過リカトセ) 米國內源泉ヨリノ所得ト見之トセリ。(Article) 義、
同シテ後述ス)

次ノ解釋ハ郵船業が製造業乃至販賣業トシテ全盤全一取扱フ可トスル場合、
限リ支持し得ルキ事勿論ナリ。蓋シ一九二一年條令ニ二七節中ニ於テ勞務的性質 (Service) ヲ認ムル條令ハ、
氏ノ意見ニ依リ前記類推ハ西復サレニ至ルヲ以テナリ。
乍然前條令が郵船業ノ勞務的性質ヲ認メカリシ事ハ、
29

船船會社ノ經營ハ營業(船船會社)ニ非レテ製造、販賣營業トシテ
 事ヲ示スモノト解スル事ニ非レテ其後一九二一年法律
 各年度ノ開始方藏者トシテ取極メテ外國船船會社ノ所得ニ對シテ
 右各年度以前ノ於テ一般規定ト矛盾多ク且限リ方藏者法
 三三八七種証載ノ原則ヲ適用スル事トナラザル事ナリ
 一九一八年法令中規則「第四五」九二條ノ外、外國船船會社ノ
 米國所得ノ則ト特別ノ規定ナシ、中藏知ノ通り各條(九二條)ハ
 後々ノ事項中、若國内ノ事務所又ハ營業所ヲ有セザル外國船船
 ノ若國内ヨリ取得セシ備無料ニシテ課税セザル事ト規定セリ
 第六二條中、於テ右第九二條ノ規定ハ「米國內ニテ
 事務所、關係先、代理店等ヲ有セザル外國船船營業者」トシテ
 米國港ニ寄港シ又ハ米國内ニテ營業所ヲ行ヒ居ル者トシテ、
 制限ヲ設ケラズナリ
 30 法制限ハ會社が實際米國內ニ於テ他ノ有税營業所ヲ行ヒ居ル

レヤ否ヤハ別トシ備無料ノ取得ハ米國內ニ於ケル營業所ノ關係ナキ
 場合ニ對シテ適用ナキモノト謂フナリ
 吾人ノ見解ニシテ米國船船院ヨリ取得セシ備無料ハ「貨物輸送
 Freight and Passenger Traffic」又ハ米國內外間ノ運輸(Business
 or Transportation)ニシテ所得ヲ構成セザルモノナリ
 運送業ノ人員、設備、組織統制、經理、貨物ノ募集引合、
 積卸其他同様ノ必要トスルモノモ備無料契約ノ基ニシテ貨
 物料ノ支拂ハルモノ以上各種ノ事項ト何等ノ關係ナシ
 貨物料ノ單ハ船及乗組員ノ使用ニ對シ時間制ヲ以テ支拂フニ
 過ラス、船が一海里ヲ航行シタルトテ又一封度ノ積荷ヲ何処ニ於テ
 ナシタルトテ之ト其トト何等ノ關係ナシ、及シテ備無料契約ノ基ニ
 於テ履行セラレバ貨物料、運送ニ於テ日本貨ヲ以テ支拂ハシタル
 於テナリ
 31. 本件ノ之ニ關係シ一九二一年初ノ覆行、Appeal and Review 誌上ニ掲載

以上を以て外國會社製造品ノ米國政府ノ販賣利益ニ對シテ課税ノ權
 有委員ノ意見ハ學問院ニ付テハ會社ノ株式ノ九割九分ハ米國會
 社ノ所有ニ屬シ、其米國會社ハ附屬會社 (subsidiary) 自己ノ課
 税 (tax) 仕様書 (charter) 設備及技術ノ勞務ヲ提供シ前記
 利益ノ一部ヲ收受セリ、而シテ今外國會社ハ米國由ニ事務所
 營業所ヲ有セリキ、米國政府トノ合意ノ契約ハ米國外ニ締
 結シ、履行セリシ製糖品ノ價ハ今工場揚子石 (ton) 以下外國政府
 支拂ヒセリ、委員ハ之ヲ以テ米國內源泉ヨリ利益ニ非ラス
 (A. B. W. 143 4 c. 6. 14) 委員ノ意見ニ對テハ今
 額ノ異ラス所ニ付テハ政府又ハ他ノ米國內源泉ヨリ所得セム全額
 益ノ悉ク加必スシテ國稅稅收ノ範圍由ニ控テ課税所得ヲ構成ス
 モノニ非ラスヲ傳別ヲ示スモノトシテ重要視シテ可アリト見テラス
 所得ヲ得ル方格ト所得ヲ得ル場所ト共ニ決定ヲ要スルニ非ラス
 然ル、汝見地ヨリ觀テ又備無事ハ日本ニ於テ支拂ヒセザルニ非ス

締結セラレタル契約ノ下ニ且「米國其他ノ國ヲ起スルニ備テ海上
 運輸ノ團ニ事務 (office) ノ付價トシテ非スルヲ以テ等船船
 船船院 (ship court) 海上運輸ニ使用セラレタル船又陸軍船セラレタルトテ
 周リカ「金銀貨幣同類ニ依ル船船ノ貨物材料トシテ支拂ヒセザル事案ニ
 對シテハ金銀貨幣貨物材料ハ米國內所得ナリト認メ得ルキ
 理由ニ對テ是實見ニ從ハルナリ」
 日本郵船會社 (Nippon Yusen Kaisha) 米國內有タル事ハ米國顯ニ關係ヲ有ス
 今營業所ヨリ專ラ米國ヲ起スルニ付テハ營業所ノ取扱ノ為メ
 若シクハ米國內ニ航路ノ終止ヲ有スルニ付テハ維持セラレタルニ付テ
 備船契約ノ履行、提供船ノ運送乃至又備船契約ニ依ル備船
 料ノ取次等ノ團トシテ何事團與スル所ナリシキ
 Acting Attorney General, Friedman 氏ノ前記意見書中ノ用ヒタル
 「貨物運輸 (cargo and passengers) 在格向ハ海運ニ當ラス」
 「クスパート」等語ヲ掲ガレタル語彙 (dictionary) 在言書ノ末ニ載ル

「貨物・運送・道路・鉄道・航路・旅人及貨物ノ復本其他」ヲ含ム
モノトシテ、サト吾人ハ *Mr. Williams* 氏ノ使用セルトシテ、大藏省次官第
三三八七號申ノ用ニシテ「運輸事務ノ業ヲ営ム」(*Carriage and
Transportation business*) ト同意味ナリト解ス。又 *late phrase* 一
貨物ノ莫方集、其仕向世ノ航路、仕向地ニ於テハ陸揚ノ業トシテ
務ヲ含ムモノトシテ、航路院ニシテ次々トシテ院自身ノ目的ノ為ニ使用
セラレタル船舶ノ貨物ノ料トシテ取リ得ル付價カ右ノ事務(*business*) 又運輸
院(*office*) 一節トシテ包含セラルモノトシテ考へらる。又運輸院ノ船舶
院ノ貨物ノ依リ ^{船舶會社} 運輸院ノ運送業(*Transportation Business*)
ヲ完全ニ絶縁セラレタルナリ。

34. 一九二一年指令二一七號ニ依リ大藏省決定書草案ニ就キ
故 *Mr. Adams* 博士ガ *Mellon* 氏(*Secretary of Treasury*) ノ為ニ作成セル草案
中「運輸事務(*Transportation business*)」ノ業ヲ含ムモノトシテ
(運輸業ヲ商品化セル *commodification* ナリ) 運輸ノ保証セカガ為メニ事務

所ノ維持及事務員ノ僱傭ヲ要シ、又廣告ニ相當費用ヲ要スル
而シテ、何等經營費ハ他ノ商賣出ト同條ニ分割シ、於テ運輸業ノ
重要性ヲ以テ便利ニシテ、又噸ガ欠陥ナク尺度ナリ。一定ノ場所
ニ於テ規則的ニ業務ヲ営ムモノ一船且正當ノ金所ニ於テ所得又ハ

利益ノ源泉ヲ構成スルモノト認マラレトスナリ。
備航ノ場合吾人、其為サレシ業務トシテ、唯一ニシテ之ハ日本ニ於テ
遂行セラレタリ。 *Adams* 博士ノ掲ガル如ク、何等ノ業務遂行
上必要ナリトセズ、而シテ、何等ノ船舶ノ傭入ニ付、船長及乗組員等
ノ有無乃至機関取付ノ有無等ノ事、何等ノ所得ノ本質、何等ノ意
ヲ生スルベキト非ズ、只所得金額ニ於テ乗組員ト機関ノ提供ノ有無
ニヨリ、大小アリト過サズ。若シ上記諸句ガ吾人ノ思惟スル如ク、何等ノ時
ナリトセバ、備航料ノ取得ニ実在セザル運送(*business*) 又ハ業務(*business*)
ノ要素ヲ認めカハ、カウナルベシ。

35. 同様、日本郵船が米國內、支店ヲ有スル事々「貨物輸送ノ記

其の多量に關係する航海里程ヲ基調トシテ日本議會ノ決議ニ
基キ附與セラルル補助金ト何等ノ實質的ノ關係モ有ラズ
吾人ノ知ル所限リ一九一八年法律及ニ其他諸法規程ニ特ニ補助金ノ
規定セシモノアルヲ知ラズ。且前掲法律ガ現行條道問題ニ對シテ立法院
判決ニ於テ米國會社ニ取得ノ補助金ノ圍ニ所得ノ定義ヲ審議シ
其種美ノ如何ニ不拘所得ノ課税セラルベトセリ。今件ニ於テ所得
ノ源泉ヲ決定セトシタルニ非ザリシモ日本郵船ノ場合ニ付テ其長
重要ト問題ナリ。今立法院ニ補助金ノ勞務 (Service) ノ提供ニ對シ取
得セラルベキモノニ非スト述ベタルハ。孰ラカ立法院ニ是ヲ以テ補助金ガ
勞務 (Service) ノ提供ニ依リ取得セラルベキ場合ニ課税セラルベト
ハキヲ暗示セシモノナルベシ。乍然日本郵船ノ場合補助金ガ政府ノ
為貸與輸送ノ取扱ニ關スル運送勞務 (Transportation Service) ノ提供ニ
シテ日本政府ガ支拂セラルベキモノニ非ズ。
補助金ノ源泉ニ付テ是ノ如ク米國ニ起スル實質的運送ニ關

36

海上運送ト直接關係ナリ。國策遂行ノ具トシテ法律上ノ權能ニ基
キ日本政府ニヨリ日本ニ於テ支拂セラルベキモノト置カレシメ方ラス。
補助金ノ支拂ハ郵船社ト有主間ノ債務契約ニ基キテ行ハレタ
ルニ。又貸與ノ數量、種類、運送ノ種類、積卸、運送ノ取扱
者、海之運送ノ業務ノ構成等々前記ト異ハシ。業務ト何等
ノ關係ヲ有ス。吾人ハ日本政府ヨリ取得セシ補助金ガ米國ニ起スル
實質的運送ノ取扱ニハ米國内ニ行ハレシ勞務 (Service) ノ生
ジタル所得ナリトスル解釋ヲ誤リト思フ惟ス。
上述ノ如ク一九一八年法律中外國會社ガ外國政府ヨリ取得セシ
補助金ノ取扱ニ關スル特別規定ニ知ラスト異ニ議會ノ意向ハ外
二三節ニ於テ米國內ノ營業ニ基キ所得及米國民ノ發行セシ
証券類 (Securities) ヲ生ズル所得ニ對シテ課税スルニ在リテ明瞭
ナリト思フ。左ニ中二三節ニ引照シ吾人ノ見解ヲ示ス為メ
「アンダーライム」ヲ附シテ

37

「外國商社ノ場合ニ於テ其後所得トシテ令其國內源泉ヨリ
 總所得ノ意味シ。俾得金、對スル利子、紙幣ノ外米國臣
 臣社團其他ノ利息付債券、由國人商社ノ配當金及令其
 國內ニ於テ製造ノ及至也。分(賣買)セル物品ノ利益ニ基ク
 收入額(物品販賣契約其他ノ依ル勘定ニ在リテ)ヲ令其」

一九一八年ノ法令、其後ノ法令ト異ナリ。物品販賣ノ利益ヲ據ル
 所得トシテ之ヲ製造及販賣共ニ米國內ニ於テ行ハレ、ラ必要
 トセリ。吾人ハ本節ヲ正當ニ解釋シテ「外國商社ヲ對スル利得ノ明
 カニ米國々境內ノ所得ト限定スルニシテ「外國政府ハ經濟的
 利得ノ概念ヲ離シ、政治的社會的目的ノ下ニ令其國ト諸外國トノ
 海運關係ノ維持ヲ確保スルヲ望ムトシ其國民ノ支拂フ所ノ補助金
 ヲ包含スルハ如キ廣義ニ解スルヲ得ト思ヘラス」

38 其後發布セラルル法令甲海運ニ依ル所得ヲ述ベセルトシテ
 注意スルキ運輸事務(Transportation Service)ニ其主ク收入ノ就キ特ニ

指摘ニ在ルモノナリ。例ハ規則(People's)七七第六八三條「斯ル事務
 務(Business of Transportation Service)ニ對スル米國內源泉ヨリノ
 所得リ其事務(Business)ノ後收入ヲ納税有カ米國內ニ於テ運
 セル運送業ノ要スル全費又ハ支出ノ合計ヲ算引モ該額ヲ以テ決定
 スルト規定セリ。

吾人ハ運送業(Transportation Business)ト運輸事務(Transportation Service)トハ
 主トシテ海上ニ於テハ貨客ノ輸送ヲ意味スルモノト解セリ。右ノ「業務
 (Business)トハ「事務(Business)トハ補助金ヲ得ルニ為メ營業ニ主トシテ
 貨客運送ヲ得ルニ為メナリ。而シテ斯ル運送業ノ必要又ハ支出
 貨物運送ノ收入ヲ目的トスルモノナリ。右經費又ハ支出ノ主トシテ
 貨物ノ受入積卸及輸送ニ要スル費用ニシテ補助金獲得ニ要
 スル費用トスル」

39 I.T. 2078 甲、
 「船舶ハ一外國境ヨリ外外國境又ハ一外國境向ケ去ルニ過シ

三哩ノ沿岸又ハ別ノ米國港ニ寄港シ米國內海象ヨリ所得ヲ伴フ
 業務ヲ行ハシテ高港ニ更ニ所得ヲ伴フヤキ業務遂行上ノ自
 的港向ケテ三哩外ニ退去スル場合 斯ニ過渡的米國領海通過ニ
 于テ其通過時間及里程ニ對シテ經費ハ米國內支出ノ至多ト想ハカ
 斯ニ至費ハ至多全航海ノ至多トシテ処理スルキモトモ、三哩ノ
 領海到達時ヨリ所得ヲ生ズルヤキ業務遂行ノ米國港入港時
 迄ノ時間及巨高ノ討算ハ公認又ハ既設航路ヲ進級スル場合
 右航路ハ米國沿岸三哩ノ境界ヲ通過ノ時及場所ヨリ討算ス
 ルモノトス 然レ規定リ航路ハ其港ヲ支州スル場合ニモ之ヲ適用ス
 (111-2 C.B. 167) L

40

右規定ハ大藏省決定三三八七號ノ解釋トシテ公布セラルルモノトシテ
 米國々境内ニ於テ行ハシムル所得ヲ構成スルヤキ業務ニ關シ船舶ノ
 運用者ノ時留及里程ノ討算上ノキネトヲ求メタルモノトシテ重要
 ナリトス

補助金ノ問題ニ付テハ吾人ノ上記以外ノ量、一九二九年一月ノ米ノ
 費書中ニ述ベタル所ノ取極ニ結ルカ
 最後ニ日本郵船ハ取得セシ備航料ト補助金トハ米國內ニ於テ
 課税セラルヘカラカシトハ余ノ確信スル所トシテ附言ス
 其ノ一ノ理由ハ吾所得税中如何ニ規定スル確定的トシ、課
 税ニ得ル條項ヲキネトニテハ二重ハ兩重共々、米國々境内ニテ業務
 (business) 又ハ労働 (labour) ノ行ハシムル結果生シタル收入ニ報ラカシ
 下ト見レリ

大藏省決定三三八七號ノ原本ニ於テ米國々境外ノ所得ノ限界
 (limitation) ノ規定ニ關シテ、運輸労働 (transportation labour) ノ業務
 務ニ基テ所得ノ之ヲ所得トセリ 若シ外國人納税者ノ取得セ
 備航料ニ對シ課税セントモ備航料中ニ定メラルル備航料
 明カニ別個ノ取扱ヲ要スルモノトシテ異ナリトモ考慮ノ下ニ特別ノ規定
 ノ要シタルモノナリ 大藏省決定中ニ示スル所ナキ補助金ニ關シテモ

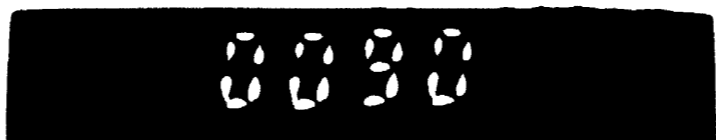
41

42

同様にして若し補助金を得れば是も亦運輸事務に別一取扱
ヲナサレバ可キ。何トナシ補助金を得れば又は貨物吐量に關係ナク
吐量基準ヲ以テ討算スルニ以テナリ
又上々貴方ノ御参考トナル事甚トス

Ronald Butcher

E-0337



電話丸の内(23) 代表番號 二五二一 二五三二 宿直室用
 東京市丸の内區 ビルディング 日本郵船株式會社

一九一七年度以降ノ稅率

一九一七年度(我社一九一八年度申告書ハ一九一七年十月ヨリ一九一八年九月ニ終ル一ケ年ニ付一九一七年ノ三ケ月分ハ本稅率ノ適用ヲ受ク)

一、所得稅	稅率 二分
(イ) 通常所得稅	四分
(ロ) 戰時所得稅	四分
二、超過利益稅	
(一) 投下資本金ノ	七割五分以下ノ所得ニ對シ 稅率二割
(二)	一割五分以下ノ所得ニ對シ 稅率二割五分
(三)	二割五分以下ノ所得ニ對シ 稅率三割五分
(四)	三割五分以下ノ所得ニ對シ 稅率四割五分
(五)	三割三分以上ノ所得ニ對シ 稅率六割
三、一九一八年度	
一、所得稅(從來ノ通常及戰時ノ區別ヲ廢ス)	稅率一割二分

(10M. 3-9)

電話丸の内(23) 代表番號 二五二一 二五三二 宿直室用
 東京市丸の内區 ビルディング 日本郵船株式會社

三、超過利益稅

左ノ(イ)(ロ)中稅額ノ大ナル方ヲ課稅ス

(イ) 投下資本金ノ二割以下ノ所得ニ對シ 稅率三割
 (ロ) 二割以上ノ所得ニ對シ 稅率六割五分
 (ハ) 一割以上ノ所得ニ對シ 稅率八割

三、一九一六年度以降

一、所得稅 稅率一割
 二、超過利益稅
 (一) 投下資本金ノ二割以下ノ所得ニ對シ 稅率二割
 (二) 二割以上ノ所得ニ對シ 稅率四割

(10M. 3-9)

戦航第四五一號

大正七年四月十九日

戦時船舶管理局長官

日本郵船株式會社社長殿

米國政府ニ對シ船舶提供方ニ關スル件

右ニ關シ船舶使用命令書交付致候ニ付本月二十日午後一時相當代表者
來局相成度此段及通牒候

戦航第四四九號

船舶使用命令書

日本郵船株式會社

政府ハ其ノ會社ノ所有スル別記船舶ヲ船員ト共ニ使用スルニ付左ノ通
心得ヘシ

- 一 其ノ會社ハ本船ヲ亞米利加合衆國政府ニ引渡シ其ノ運用ニ關スル一
切ノ事項ニ付政府ノ指揮ニ從ヒ同國政府ト協定スヘシ
- 二 政府ハ本船使用期間中保険料ニ充テシムル趣旨ヲ以テ航路ノ狀況ニ
應シ重量噸數一噸一箇月ニ付金五圓以内ヲ渡切交付ス但シ一箇月未
滿ノ端數ニ付テハ日割ヲ以テ計算ス
- 三 前項ノ金額ハ其ノ月分ヲ翌月以後ニ於テ交付ス
- 三 其ノ會社ハ本命令ノ實施ニ關シ戰時船舶管理局長官又ハ其ノ指定ス
ル者ノ指揮ニ從フヘシ

大正七年四月廿日

逓信大臣男爵 田 健次郎

船名	總噸數	重量噸數
彼南丸	五二〇五噸	八三二五噸
土佐丸	五六二〇噸	七六八〇噸
蘭貢丸	五〇二〇噸	八三五〇噸
吉林丸	三七六三噸	五五三〇噸
仁川丸	三七三七噸	五五三〇噸
鳥取丸	五九七一噸	九六六〇噸
錫蘭丸	四八八六噸	六四四〇噸
阿波丸	六〇三七噸	八〇七〇噸

記

戰航第四四〇號

大正七年四月二十日

日本郵船株式會社社長殿

戰時船舶管理局長官

船舶使用命令ニ關スル件

大正七年四月二十日附戰航第四四九號ヲ以テ貴社所有汽船彼南丸外七隻ニ對スル使用命令書交付相成候處同命令書第一項ニ定ムル米國政府トノ協定ハ別紙様式ニ依リ在本邦米國大使ト締結可相成依命此段及通達候也

追テ別紙様式ニ定ムル事項ノ外帝國政府ト米國政府トノ間ニ取極メタル事項別記ノ通ニ有之候條了知相成度爲念申添候

E-0337



一本件船舶ニシテ既ニ無線電信ノ設備ヲ有スルモノヲ除キ米國政府ヘ提供ノ爲今回特ニ其ノ設備ヲ爲シタル船舶ニ付テハ右設備工事ノ費用ハ米國政府ニ於テ之ヲ負擔スルコト

二本件船舶ノ戰時保險ニ關シテハ米國政府ニ於テ船齡十年未滿ノ船舶ニ在リテハ重量噸數一噸ニ付二百弗、十年以上ノ船舶ニ在リテハ同百七十五弗ノ割合ヲ以テ戰時保險ヲ付スルコト

三米國政府ハ本件船舶カ六ヶ月以上行衛不明トナリ其ノ原因不明ナル場合ニ於テハ戰爭ニ因ル損害ト看做シ賠償スヘク其ノ他ノ場合ニ於テハ兩國政府當局ニ於テ戰爭ニ因ル損害ト認ムルトキハ戰時保險金ノ支拂ヲ爲スコト

四米國政府ハ船員ニ對スル戰時危險ニ付テハ米國保險法ニ規定セル通死亡又ハ生涯不具ノ場合ニ於テハ一年分ノ給料ヲ支給スヘシ尤モ此ノ金額ハ五千弗ヨリ多カラス千五百弗ヨリ少ナカラサルモノトス

又一腕、一足若ハ一眼ヲ失ヒタル場合ニ於テハ前記給料ノ四割五分乃至六割五分ヲ給與シ且敵ノ爲ニ抑留セラレタル場合ニ於テハ其ノ抑留期間内引續キ給料ヲ支拂フコト

五本件船舶カ危險區域ヲ航行スルニ付乗組員ニ對シ特別ニ支給スヘキ増給額ノ中若干ハ米國政府ニ於テ之ヲ負擔スルコト

六米國政府ハ乗組員ノ慰勞、上陸及取締ニ關シテハ帝國政府ノ出張員又ハ船主ノ代理人ノ希望ニ應シ成ルヘク便宜ヲ供與スルコト

七米國政府ハ乗組員補充ノ爲渡航スル者ニ對シテハ成ルヘク便宜ノ取扱ヲ爲スコト

八米國政府ハ米國海員法第十三條ニ定ムル *able seaman* ニ關スル規定適用方ニ付テハ表面上其ノ適用ヲ拋棄スルコトヲ得サルモ右規定ノ適用ヨリ生スル結果ニ對シテハ有ユル保護ヲ與フルコト

九米國政府ハ本件船舶ノ使用及其ノ乗組員ニ對シ必要ナル海圖、信號器其ノ他ノ船用品及食料品ノ購入貯藏及輸送ニ付各般ノ援助ヲ與フルコト

- 十米國政府ハ本船使用期間中船舶及其ノ機械ノ修繕及維持ニ關シ各般ノ便宜ヲ與フルニ努ムルコト
- 十一米國政府ハ本件船舶ニ模様替工事ヲ爲サントスルトキハ豫メ船主ノ承諾ヲ得ルニ努ムヘク尙米國政府ニ於テ此ノ種ノ模様替工事ヲ爲シタルトキハ使用期間滿了ノ際其ノ費用ヲ以テ原狀ニ復スルコト
- 十二米國政府ハ本件船舶ニ依リ爆發物又ハ類似ノ危險物ヲ輸送スル場合ニ於テハ之ヨリ生スル總テノ危險ニ付責任ヲ負フコト
- 十三米國政府ハ貨物ノ過積若ハ不足又ハ之ニ對スル損害ニ付テハ船主ニ責任ヲ負ハシメサルコト
- 十四米國政府ハ貨物又ハ旅客ニ關スル偶然ノ事故ニ因リ航海ヲ中止スル期間ニ付テハ引續キ使用料ヲ支拂フコト
- 十五米國政府ハ流行病ヨリ生スル結果及損害ヲ負擔スルコト
- 十六米國政府ハ本件船舶及船員ニ關シ彼我ノ法規ヲ異ニスル場合ニ於テハ出來得ル限リ我法規ニ依ル様努ムルコト

within the territorial limits of the United States bears to the total number of days on the voyage, and fuel consumed on each voyage may be pro-rated on the basis of the proportion which the number of miles sailed within the territorial limits of the United States bears to the total number of miles sailed on the voyage. Income, war-profits and excess-profits taxes should not be regarded as costs or expenses for the purpose of determining the proportion of gross income from sources within the United States; and for such purpose, interest and other expenses for the use of borrowed capital should not be taken into the cost of services rendered, for the reason that the return upon the property used measures the extent to which such borrowed capital is the source of the income. For other expenses entering into the cost of services, only such expenses as are allowable deductions under the Revenue Act of 1921 should be taken.

"The value of the property used should be determined upon the basis of cost, less depreciation. Eight per cent (8%), may ordinarily be taken as a reasonable rate of return to apply to such property. The property taken should be the average property employed in the transportation service between points in the United States and points outside the United States during the taxable year. For ships the average should be determined upon a daily basis for each ship and the amount to be apportioned for each ship as assets employed within the United States should be computed upon the proportion which the number of days the ship was within the territorial limits of the United States bears to the total number of days the ship was in service during the taxable period. For other assets employed in the transportation business, the average of the assets at the beginning and end of the taxable period ordinarily may be taken, but if the average so determined does not, by reason of material changes during the taxable year, fairly represent the average for such year either for the assets employed in the transportation business in the United States or in total, the average must be determined upon a monthly or daily basis.

"(2) Interest and income, war-profits and excess profits taxes should be excluded from the apportionment process, as explained in (1) above; but for the purpose of computing net income, there may be deducted from the gross income from sources within the United States, after the amount of such gross income has been determined, a ratable part (a) of all interest (deductible under section 214(a) (2) or section 234 (a) (2) and (b) of all income, war-profits and excess-profits taxes (deductible under sections 214(a) (3) and 234 (a) (3), paid or accrued in respect of the business of transportation service between points in the United States and points outside the United States. Such ratable part should ordinarily be based upon the ratio of gross income from sources within the United States to the total gross income, from such transportation service.

"(3) If a foreign corporation subject to this article is also engaged in a business other than that of providing a transportation service between points in the United States and points outside the United States, the costs and expenses (including taxes) properly apportioned or allocated to such other business should be excluded both from the deductions and from the apportionment process prescribed in (1) above; but, for the purpose of determining net income, a ratable part of any general expenses, losses or deductions which cannot definitely be allocated to some item or class of gross income, may be deducted from the gross income from sources within the United States, after the amount of such gross income has been determined. Such ratable part should ordinarily be based upon the ratio of gross income from sources within the United States to the total gross income.

"(4) Application for permission to base the return upon the taxpayer's books of account will be considered by the Commissioner in the case of any taxpayer subject to this article, who, in good faith and unaffected by considerations of tax liability regularly employs in his books of account a detailed allocation of receipts and expenditures which reflects more clearly than the process prescribed in (1) and (2) above, the income derived from sources within the United States."

(COPY)

CONGRESSIONAL INFORMATION BUREAU

WASHINGTON D C August 24, 1922.

FOREIGN TRANSPORTATION CORPORATIONS' TAXES.

外
幣
對
於
運
送
業
務
之
課
稅
規
定

The Treasury Department today made public new regulations governing the manner in which foreign corporation conducting a transportation business between points in the United States and points outside the United States shall determine which part of their income is derived from sources within the United States. These regulations are for the purpose of ascertaining what part of the income of such corporations is taxable in this country. The regulations are in the form of a Treasury decision (T.D.3387) and are as follows:

"To Collectors of Internal Revenue and others concerned:

"Regulations 62 are hereby amended by adding thereto Article 327 (a) to read as follows:

"Art. 327 (a). Transportation services - A foreign corporation carrying on the business of transportation service between points in the United States and points outside the United States derived income partly from sources within and partly from sources without the United States.

"(1) The gross income from sources within the United States derived from such services shall be determined by taking such a portion of the total gross revenues therefrom as (a) the sum of the costs or expenses of such transportation business carried on by the taxpayer within the United States and a reasonable return upon the property used in its transportation business while within the United States bears to (b) the sum of the total costs or expenses of such transportation business carried on by the taxpayer and a reasonable return upon the total property used in such transportation business. Revenue from operations incidental to transportation services (such as the sale of money orders) shall be apportioned on the same basis as direct revenues from transportation services.

"In allocating the total costs or expenses incurred in such transportation business, costs or expenses incurred in connection with such part of the services as were wholly rendered in the United States should be assigned to the cost of transportation business within the United States. For example, expenses of loading and unloading in the United States, rentals, office expenses, salaries and wages wholly incurred for services rendered to the taxpayer in the United States belong to this class. Costs and expenses incurred in connection with services rendered partly within and partly without the United States may be pro-rated on a reasonable basis between such services. For example, ship wages, charter money, insurance and supplies chargeable to voyage expenses should ordinarily be pro-rated for each voyage on the basis of the proportion which the number of days the ship was

E-0337

国立公文書館 アジア歴史資料センター

Japan Center for Asian Historical Records

<http://www.jacar.go.jp>

外國汽船會社ノ所得計算方法
ヲ規定セル一九三三年發布細則ナリ
(六百六頁附經過大要御参照)

E-0337

0030

any other taxable years has been overpaid or underpaid.

全一九二六年税法中、舊税法ニ基ク所得税ガ未決定ナル場合上記二七四條ヲ
準用スベキ旨並附加スベキ利息ニ關スル條項

抄
録
報
外
?
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

Sec. 283 (a) If after the enactment of this Act the Commissioner determines that any assessment should be made in respect of any income, war-profits, or excess-profits tax imposed by the Revenue Act of 1916, the Revenue Act of 1917, the Revenue Act of 1918, the Revenue Act of 1921, or the Revenue Act of 1924, or by any such Act as amended, the Commissioner is authorized to send by registered mail to the person liable for such tax notice of the amount proposed to be assessed, which notice shall, for the purposes of this Act, be considered a notice under subdivision (a) of section 274, of this act. In the case of any such determination the amount which should be assessed (whether as deficiency or as interest, penalty, or other addition to the tax) shall, except as provided in subdivision (d) of this section, be computed as if this Act had not been enacted, but the amount so computed shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations as in the case of a deficiency in the tax imposed by this title.

(d) In the case of any assessment made after the enactment of this Act in respect of a tax imposed by any Act of Congress prior to November 23, 1921, interest upon the tax proposed to be assessed shall be assessed at the same time as such tax, shall be paid upon notice and demand from the collector, and shall be collected

as part of such tax, at the rate of 6 per centum per annum, from the date of the enactment of this Act (February 26, 1926) to the date such tax is assessed, or, in the case of a waiver under subdivision (d) of section 274, to the thirtieth day after the filing of such waiver or to the date the deficiency is assessed whichever is the earlier.

以新原
協定請求

Sec. 274(a)

If in the case of any taxpayer, the Commissioner determines that there is a deficiency in respect of the tax imposed by this title, the Commissioner is authorized to send notice of such deficiency to the taxpayer by registered mail. Within 60 days after such notice is mailed (not counting Sunday as the sixtieth day), the taxpayer may file a petition with the Board of Tax Appeals for a redetermination of the deficiency. Except as otherwise provided, no assessment of a deficiency in respect of the tax imposed by this title and no distraint or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 60-day period, nor, if a petition has been filed with the Board, until the decision of the Board has become final.

(b) If the taxpayer files a petition with the Board, the entire amount redetermined as the deficiency by the decision of the Board which has become final shall be assessed and shall be paid upon notice and demand from the Collector. No part of the amount determined as a deficiency by the Commissioner but disallowed as such by the decision of the Board which has become final shall be assessed or by collected by distraint or by proceeding in court with or without assessment.

(c) If the taxpayer does not file a petition with the Board within the time prescribed in subdivision (a) of this section, the deficiency, notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon notice and demand from the collector.

(d) The taxpayer shall at any time have the right, by a signed notice in writing filed with the Commissioner, to waive the restrictions provided in subdivision (a) of this section on the assessment and collection of the whole or any part of the deficiency.

(e) The Board shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any penalty, additional amount or addition to the tax should be assessed, if claim therefor is asserted by the Commissioner at or before the hearing or a rehearing.

(f) If after the enactment of this Act the Commissioner has mailed to the taxpayer notice of a deficiency as provided in subdivision (a), and the taxpayer files a petition with the Board within the time prescribed in such subdivision, the Commissioner shall have no right to determine any additional deficiency in respect of the same taxable year, except in the case of fraud, and except as provided in subdivision (e) of this section or

(g) The Board in redetermining a deficiency in respect of any taxable years shall consider such facts with relation to the taxes for other taxable years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for

- (2) All interest paid or accrued.....
- (3) Taxes paid or accrued.....
- (4) Loss sustained.....
- (5) Debts ascertained to be worthless.....
- (6) Amount received as dividend etc. upon which income tax has been imposed by Act of Congress.
- (7) A reasonable allowance for the exhaustion, wear and tear of property.....
- (8) Amortization (別紙参照)
- (9) A reasonable allowance for depletion in the case of mines etc.
- (10) Deduction allowed only in the case of insurance company.
- (11) do.
- (12) do.
- (13) do.
- (14)

(b) In the case of a foreign corporation the deductions shall be allowed only if and to the extent that they are connected with income arising from a source within the United States; and proper apportionment and allocation of the deductions with respect to sources of income within and without United States shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

一九一八年税法中「アモータゼーション」ニ關スル條項

234 (a) (8)

In the case of buildings, machinery, equipment, or other facilities, constructed, erected, installed, or acquired, on or after April 6, 1917, for the production of articles contributing to the prosecution of the present war, and in the case of vessels constructed or acquired on or after such date for the transportation of articles or men contributing to the prosecution of the present war, there shall be allowed a reasonable deduction for the amortization of such part of the cost of such facilities or vessels as has been borne by the taxpayer, but not again including any amount otherwise allowed under this title or previous acts of Congress as a deduction in computing net income.

1. Income upon which the tax levied

Sec. 230. (a).....there shall be levied, collected, and paid for each taxable year upon the net income of every corporation a tax at the following rates:

2. Net Income

Sec. 232. That in the case of a corporation subject to the tax imposed by section 230 "net income" means the gross income as defined in section 233 less the deductions allowed by section 234,

3. Gross Income

Sec. 233. (b) In the case of a foreign corporation gross income includes only the gross income from sources within the United States, including the interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, dividends from resident corporations, and including all amounts received (although paid under contract for the sale of goods or otherwise) representing profits on the manufacture and disposition of goods within the United States.

4. Article (550). Gross income of foreign corporations. -

The gross income of a foreign corporation means its gross income from sources within the United States, as defined and described in articles 91-93 relating to nonresident alien individuals.

5. Article 91 Gross income of nonresident alien individuals. -

In the case of nonresident alien individuals "gross income" means only the gross income from sources within the United States. This includes interest on bonds, notes or other interest-bearing obligations of residents, corporate or otherwise, dividends from resident corporations, amounts received representing profits on the manufacture and disposition of goods within the United States, rentals and royalties from property and income from business carried on in the United States, interest on deposits in banks located within the United States, income from capital otherwise invested in the United States, and income from services rendered or labor performed within the United States.

6. Article (92). Income of nonresident alien individuals not subject to tax. - The tax does not apply to charter money

or freight payments received by a foreign owner in regard to a vessel operated between the United States and foreign ports, if the person receiving the income maintains no regular agency in the United States and is not doing business in the United States.

6. Deductions

Sec. 234. (a) That in computing the net income of a corporation subject to the tax imposed by section 230 there shall be allowed as deductions:

- (1) All the ordinary and necessary expenses.....

Handwritten notes in Japanese characters, including the number 550, are present in the left margin of the right page.

電話九ノ内(23) 代表番號二五二一 二五三二 二五三三 二五三四 (寄直兼用)
東京市九ノ内郵船ビルディング 日本郵船株式會社

麻内省第三七號 親展

外務省通商局第二課 日本郵船株式會社
荻田不二夫 殿

昭和九年七月七日



會計士
張連
總務

拝啓 益々清祥奉賀之矣
陳者米國所得稅問題之付昭和二年八月米國公認會
計士トシテ Price Waterhouse & Co. 會計士ヲ招致シ我社會
計帳簿ヲ査閲セシメ其作成カハル報告計美書ヨリ稅額
確定解決ノ事ニ致シタル經濟ニ付テハ當時弊社紐育支店
ヨリ其事情ヲ報告シ来リタル書面紐會第一二三號及左一
三二號之詳細ヲ盡シ居リ茲則茲許寫封子高覽ニ供
シ及同書面記載ノ如キ事情ニテ會計士ノ報告計美書ヲ
米當局ニ提出シ其結果一九一七年度分ハ過拂金ノ拂
戻ヲ得テ解決致シ及得共其後三ヶ年分ハ未決トシテ

電話九ノ内(23) 代表番號二五二一 二五三二 二五三三 二五三四 (寄直兼用)
東京市九ノ内郵船ビルディング 日本郵船株式會社

留保セラシメテ日之及ヒ今回ノ問題ヲ惹起スルニ至リタル次第
ニ仰座矣
敬具

寫
會計課 沙市、桑港

日本郵船株式會社

紐會第一二三號

逕啓第二課長

昭和九年七月十五日 坂本宗蔵

社 長 御中

紐育支店長

(庶務部文書課)

坂本宗蔵

昭和二年七月十五日

自一九一七年度 吾社納入米國所得稅問題解決ニ關スル件
至一九二〇年度

要 點

- 一、米國政府ハ豫テ係争中ノ 自一九一七年度 外國汽船會社課稅所得金計
算方法ニ關シ *Fraser Decision* ヲ撤回シ (吾社モ先年之ニ從カヒ
假納稅濟) 其代リニ一九二一年度所得稅法中 *Treasury Decision*
三三八七號 (吾社ノ所謂新細則) ノ計算方法ヲ採用セントス
- 二、右決定ニヨル計算ハ公認會計士ノ検査證明 必要トシ政府ハ總テ公
認會計士ノ計算書ヲ基礎トシテ本件ヲ解決セントス
- 三、吾社關係會計士 *Price Waterhouse Co.* ハ本件ニ關スル公認會計士ト認

會計士
派遣
依頼

日本郵船株式會社

メラレ關係諸會社ノ委託ヲ受クル模様ナルヲ以テ吾社モ亦商船東洋
汽船ト共ニ同社ニ委託スル事

同社ハ夫々委託會社本店ニ人ヲ派シ帳簿検査ノ上證明書ヲ發行ス
四、新細則ニ依リ改算ヲ行フ結果吾社ハ既納税金ノ一部拂戻ヲ期待シ得
ル事

五、會計士ノ日本派遣員ニ關スル諸費用ハ適宜三社分擔ノ事

多年アンカーラインテストケースヲ通シ係争中ノ 自一九一七年度 吾社納入

米國所得稅問題ニ關シ今般前掲第一項第二項ノ通り米國政府ヨリ申出

アリ依テ吾社辯護士 *Burlingham Veeder Masten & Peary* 並ニ會計士

Price Waterhouse Co. トモ協議ノ上本日別紙ノ通り電信ヲ以テ御指圖ヲ

仰キタル次第ナリ

元來本問題ハ各國汽船會社ニ涉リ永年ノ懸案ナルト共ニアンカーライン

ノ訴訟進行ニ伴ヒ政府當局ニ於テモ此際何等カ適宜ノ解決ヲナスヲ必

要ト認メ專問家ノ協議ヲ經テ遂ニ一九二一年度制定ノ所謂新細則ニヨ

リ計算書改算ノ上課稅金額決定スル專最モ合理的ナルト共ニ双方便宜且ツ簡單ナルモノト認メ今回ノ決定ヲ爲シタルモノノ如ク此ノ方法ニヨリ永年ノ懸案タル本問題ヲ一切解決セントスルモノナリ而メ政府ハ此ノ決定實行ノ一條件トシテ會計士ヲ指定シ之ヲシテ夫々各社ノ帳簿ヲ検査セシメ其計算書ヲ以テ計算ノ基礎トナス事トセリ依テ吾社ニ於テモ根本解釋タル違憲論ニヨル訴訟ヲ遂行セザル限り本決定ニ從ヒ本件ヲ解決スル外ナカル可ク從テ他社同様會計士 Price Waterhouse ヲ指定シ帳簿検査ヲ行ハシムル外ナシト思考セラル

蓋シ吾社ハ先年既ニ假納稅ハ了シ居ルモノノ其當時シヤトル收稅官ミラー氏ヨリ各計算書詳細検査ノ結果其規定解釋上巨額ノ追徴方要求ヲ中央政府ニ報告シアリ吾社ガ若シ此ノ上何處迄モ係争ヲ續クルトセバ何時解決ヲ見ルヤ計リ難キノミナラズ或ハ政府自ラ官吏ヲ日本ニ派遣シ嚴重取調ヲ行フカ或ハ前收稅官ノ意見ヲ參考トシ其認定ニヨリ課稅追徴ヲ行フヤモ難計然ルニ右ノ如ク新細則ニヨリテ改算セラルル事ト

ナレバ吾社トシテハ當然既納稅金ノ一部拂戻(精確ノ金額ハ計算書完成ノ上判明ス可シ)ヲ豫期シ得ル事ナレバ可成此際一切ノ係争ヲ解除シ他社ト共ニ一致ノ行動ヲトル方得策ナル可シト思考セラレ吾社辯護士モ亦同様ノ意見ヲ有ス

而メ條件ノ一タル會計士日本派遣ノ件ニ就テハ吾社トシテハ既ニ計算書原稿其他關係書類全部當方ニアル事ナレバ必ズシモ其必要ナキニアラザルカ此點確メタル處會計士ハ各社提出ノ計算書ハ勿論精確ナル可キモ之ハ政府側ヨリ見レバ何等オソリチーハ無之夫々一應原帳簿トノ突合セテ要スル次第ナレバ關係書類ノ有無ハ此ノ際關係ナキモノナリト申出タリ果シテ然ラバ商船、東汽モ同様ノ立場ニアル可ク三社共同費用ヲ以テ前記會計士ヲ日本ニ派遣スル事最モ好都合ト存シヤトル在勤商船代表者内田氏トモ相談ノ上夫々本店ニ照會決定ヲ乞フ事トシ貴方へ架電申上ケタル次第ナリ

就テハ一應貴方ニ於テ御研究ノ上至急何分ノ儀御決定ノ上御指圖賜度以上

寫會計課 沙、桑港

日本郵船株式會社

紐會第一二三號

社長 御中

紐育支店長

(庶務部文書課)

坂本 宗藏

昭和二年七月十五日

一、自一九一七年度 吾社納入米國所得稅問題解決ニ關スル件
至一九二〇年度

- 一、米國政府ハ豫テ係争中ノ 自一九一七年度 外國汽船會社課稅所得金計
算方法ニ關シ *Frierson Decision* ヲ撤回シ(吾社モ先年之ニ從カヒ
假納稅濟)其代リニ一九二一年度所得稅法中 *Treasury Decision*
三三八七號(吾社ノ所謂新細則)ノ計算法ヲ採用セントス
- 二、右決定ニヨル計算ハ公認會計士ノ検査證明ヲ必要トシ政府ハ總テ公
認會計士ノ計算書ヲ基礎トシテ本件ヲ解決セントス
- 三、吾社關係會計士 *Price Waterhouse Co.* ハ本件ニ關スル公認會計士ト認

日本郵船株式會社

メラレ關係諸會社ノ委托ヲ受クル模様ナルヲ以テ吾社モ亦商船東岸
汽船ト共ニ同社ニ委托スル事

同社ハ夫々委托會社本店ニ人ヲ派シ帳簿検査ノ上證明書ヲ發行ス
四、新細則ニ依リ改算ヲ行フ結果吾社ハ既納稅金ノ一部拂戻ヲ期待シ得
ル事

五、會計士ノ日本派遣員ニ關スル諸費用ハ適宜三社分擔ノ事
多年アンカーラインテストケースヲ通シ係争中ノ 自一九一七年度 吾社納入
米國所得稅問題ニ關シ今般前掲第一項第二項ノ通り米國政府ヨリ申出
アリ依テ吾社辯護士 *Burlingham Veeder Masten & Feary* 並ニ會計士
Price Waterhouse Co. トモ協議ノ上本日別紙ノ通り電信ヲ以テ御指圖ヲ
仰キタル次第ナリ

元來本問題ハ各國汽船會社ニ涉リ永年ノ懸案ナルト共ニアンカーライン
ノ訴訟進行ニ伴ヒ政府當局ニ於テモ此際何等カ適宜ノ解決ヲナスヲ必
要ト認メ專問家ノ協議ヲ經テ遂ニ一九二一年度制定ノ所謂新細則ニヨ

日本郵船株式會社

リ計算書改算ノ上課稅金額決定スル事最モ合理的ナルト共ニ双方便宜且ツ簡單ナルモノト認メ今回ノ決定ヲ爲シタルモノノ如ク此ノ方法ニヨリ永年ノ懸案タル本問題ヲ一切解決セントスルモノナリ而メ政府ハ此ノ決定實行ノ一條件トシテ會計士ヲ指定シ之ヲシテ夫々各社ノ帳簿ヲ検査セシメ其計算書ヲ以テ計算ノ基礎トナス事トセリ依テ吾社ニ於テモ根本解釋タル違憲論ニヨル訴訟ヲ遂行セザル限り本決定ニ從ヒ本件ヲ解決スル外ナカル可ク從テ他社同様會計士 Price Waterhouse 指定シ帳簿検査ヲ行ハシムル外ナシト思考セララル

蓋シ吾社ハ先年既ニ假納稅ハ了シ居ルモノノ其當時シヤトル收稅官ミラー氏ヨリ各計算書詳細検査ノ結果其規定解釋上巨額ノ追徵方要求ヲ中央政府ニ報告シアリ吾社ガ若シ此ノ上何處迄モ係争ヲ續クルトセバ何時解決ヲ見ルヤ計リ難キノミナラズ或ハ政府自ラ官吏ヲ日本ニ派遣シ嚴重取調ヲ行フカ或ハ前收稅官ノ意見ヲ參考トシ其認定ニヨリ課稅追徵ヲ行フヤモ難計然ルニ右ノ如ク新細則ニヨリテ改算セララル事ト

日本郵船株式會社

ナレバ吾社トシテハ當然既納稅金ノ一部拂戻(精確ノ金額ハ計算書完成ノ上判明ス可シ)ヲ豫期シ得ル事ナレバ可成此際一切ノ係争ヲ解除シ他社ト共ニ一致ノ行動ヲトル方得策ナル可シト思考セラレ吾社辯護士モ亦同様ノ意見ヲ有ス

而メ條件ノ一タル會計士日本派遣ノ件ニ就テハ吾社トシテハ既ニ計算書原稿其他關係書類全部當方ニアル事ナレバ必ズシモ其必要ナキニアラザルカ此點確メタル處會計士ハ各社提出ノ計算書ハ勿論精確ナル可キモ之ハ政府側ヨリ見レバ何等オソソリチハ無之夫々一應原帳簿トノ突合セテ要スル次第ナレバ關係書類ノ有無ハ此ノ際關係ナキモノナリト申出タリ果シテ然ラバ商船、東汽モ同様ノ立場ニアル可ク三社共同費用ヲ以テ前記會計士ヲ日本ニ派遣スル事最モ好都合ト存シヤトル在勤商船代表者内田氏トモ相談ノ上夫々本店ニ照會決定ヲ乞フ事トシ貴方へ架電申上ケタル次第ナリ

就テハ一應貴方ニ於テ御研究ノ上至急何分ノ儀御決定ノ上御指圖賜度以上

OUTWARD TELEGRAM

Tokyo, July 15/27

CABLE CONFIDENTIAL.

32. Our lawyer advise that U.S. Govt. now willing settle Foreign Steamship Companies taxes for years 1917 to 1920 inclusive on cost of service basis Treasury decision 3387 so called Sinsaisoku stop. This is recent development, in our favor resulting from legal proceedings with Anchor Line stop. Government requires that figures on this basis for years involved be certified by independent auditor and agrees accept such certification of Price Waterhouse & Co. our accountants stop. Certification cannot be made without personal inspection books in Japan by them stop. Anticipated they also examine T.K.K. and O.S.K. stop. Expense should be borne among three companies stop. If this plan not followed Government will insist sending its own men Japan or arbitrarily assessing taxes which we would have to dispute stop. Government very anxious to proceed as soon as possible stop. We believe this arrangement is only way meet situation stop. Please consult with O.S.K. and T.K.K. and telegraph sanction quick. We are keeping touch with O.S.K. representative Seattle.

E-0337