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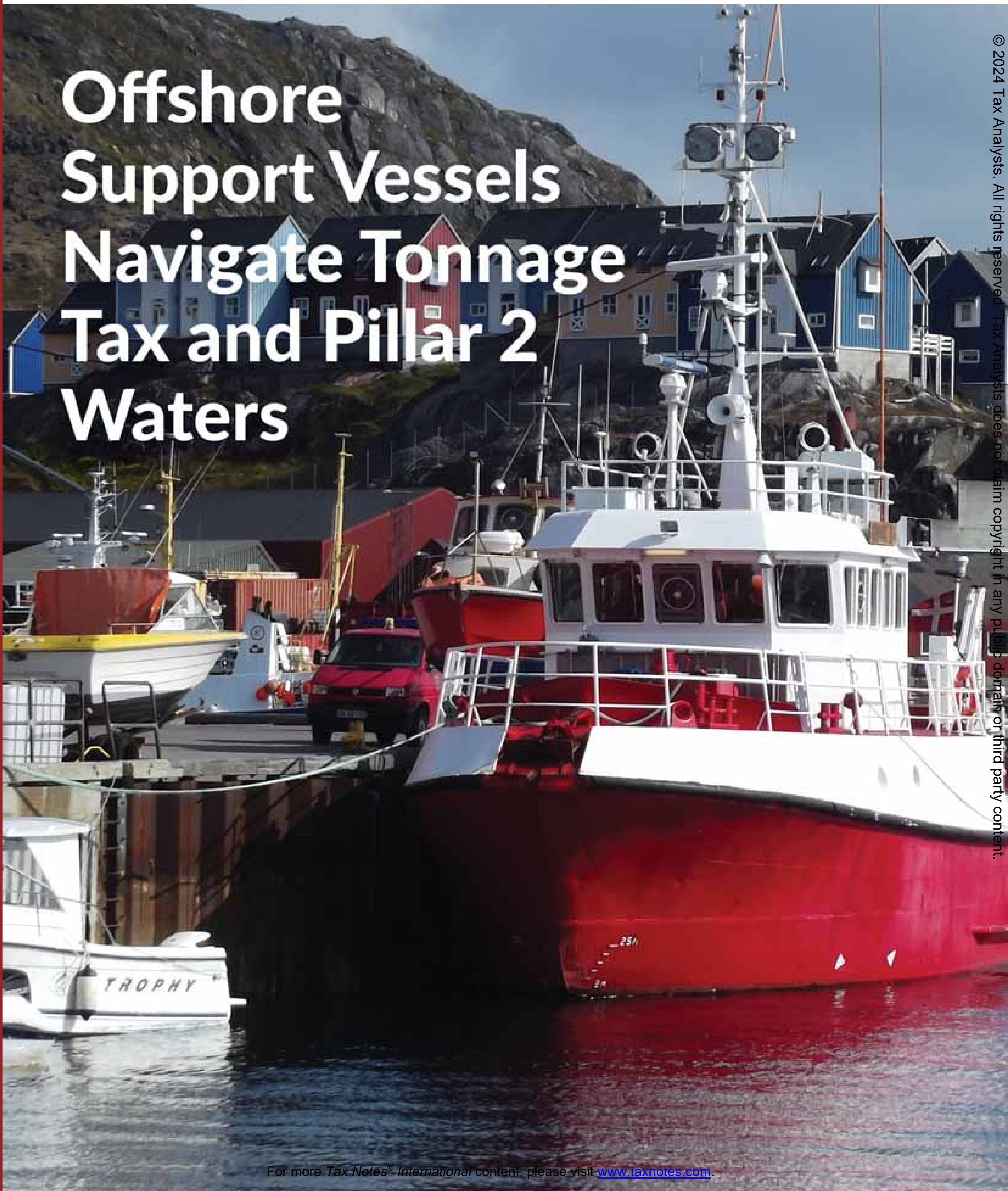

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by Karl Berlin and Daniel Rath

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In this article, Berlin and Rath explain why certain portions of the pillar 2 project may pose challenges for the international maritime industry.

Introduction

International shipping has long been subject to distinct, industry-specific tax regulations because of its capital intensity, profit levels, and the economic life cycle of international maritime operations. Special regimes like tonnage tax can result in less volatile tax effects and provide a more stable basis for long-term investments. Article 8 of the OECD model tax convention ensures that profits from ships in international traffic are taxed only in the country where the enterprise is resident. The global minimum tax rules under the OECD's pillar 2 project[1] recognize that, for example, tonnage tax regimes are deliberate and valid policy choices relating to shipping, and therefore an income exclusion for profits from ships in international traffic has been introduced in pillar 2.

However, the maritime industry has evolved significantly over the past decades. Vessels are increasingly multifunctional, and more activities take place at sea, for example, installation and maintenance of offshore energy infrastructures like wind farms.

However, these developments are not reflected in pillar 2. Instead, there is now considerable uncertainty regarding offshore support vessels, particularly concerning what is covered by the income exclusion for international traffic and what can be included in the substance-based income exclusion for enterprises operating offshore support vessels if the profit falls outside the income exclusion for international traffic.

How the activities of offshore support vessels should be qualified and treated for tax purposes can, as shown below, give rise to certain challenges in the tension between national tonnage tax schemes, article 8 of the OECD model tax convention, and pillar 2.

Details on the Vessels and Tasks

This article focuses on the tax treatment of offshore support vessels and the tasks these vessels perform. The term "offshore support vessels" is used as a collective term for vessels used for transport, construction, and maintenance tasks related to offshore energy projects. Offshore support vessels are designed to perform the tasks associated with establishing or maintaining offshore energy installations. One example is a wind turbine installation vessel, which is constructed to participate in the establishment of offshore wind farms. Another example is an

[1] OECD, "Tax Challenges Arising From Digitalisation of the Economy — Global Anti-Base Erosion Model Rules (Pillar Two)" (2021).