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FINNISH TONNAGE TAX REFORM TO THE PARLIAMENT

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On 6 November 2009 the Finnish Government issued a bill proposing amendments to the Finnish tonnage tax regime. The proposed amendments aim to promote the international competitiveness of the Finnish shipping industry and the employment of the branch in question. The new tonnage tax regime offers tax incentives to Finnish shipowners and encourages shipowners to new investments and to bring ships under the Finnish flag. The tax consultants of Attorneys at law Borenius & Kempainen Ltd are willing to assist the Finnish shipowners in taking advantage of the reform, in the implementation of the tonnage taxation regime and in the tax restructuring of shipowners' group structure.

The most significant amendments relate to the dividend distribution provisions of the tonnage tax regime, relieved flag requirements, increased flexibility of shipowners' activities, alleviated tax debt provisions and relieved sanction mechanisms.

The new tonnage tax regime is based on a calculation of income subject to tonnage tax instead of the current system where the amount of tax payable is calculated on the basis of the total tonnage of the fleet. The taxable income is calculated gradually on the basis of net cargo holds of the ship.

Example: For a ship, which internal volume is 20.000 tons, a daily taxable income will be EUR 203. The yearly taxable income will then be EUR 74.095 subject to a 26% corporate income tax rate. The total tonnage tax payable for the ship would amount to EUR 19.264 per year.

Dividends distributed by a company covered by tonnage taxation shall be taxed according to same provisions than any other dividend received by shareholders. Taking into consideration the current Finnish dividend tax provisions this leads to situations where income covered by tonnage taxation can be distributed to a parent company tax-exempt.

The bill proposes extension to the definition of activities covered by tonnage



taxation. According to the proposal the definition will also cover services that are closely related to marine transport such as harbour, delivery and terminal services. Tax-free shopping would not be part of activities subject to tonnage tax. However, the share of depreciations allowances allocated to shopping space on board would be enacted deductible in the income taxation of the shipowners' company.

In order to increase the flexibility of shipowners' activities, the flag requirements of the tonnage tax regime shall be eased. In future only 60% of shipowners' ships are required to be registered under the flag of an EU member state. In addition, 25% of the ships owned and rented shall be registered under the Finnish flag.

The group treatment of tonnage taxation will also be relieved. In the future, the group companies that carry on passenger ship activities or freighter activities can choose to apply for tonnage taxation independently.

The deduction of confirmed tax losses on non-tonnage taxable income is also proposed to be permitted to the extent that the losses have arisen in activities subject to income taxation. On the other hand, the tax debts from income taxation are proposed to be reduced against new investments of the shipowners. The shipowners may deduct the ship acquisition costs and costs of certain investments regarding environmental protection against tax debts accrued before the entry into tonnage taxation.

According to the new provisions, the approval for tonnage taxation could be cancelled by the authorities only in situations where the prerequisites for tonnage taxation have ceased or in tax avoidance situations. In case of cancellation the income tax would not be imposed retroactively. Simultaneously, the sanctions for omission from tonnage tax regime will be relieved.

The amended tonnage tax regime shall enter into force after the EU Commission has approved the amended state aid. Shipowners have to apply for tonnage taxation within three years from the entry into force of the new



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legislation. In practice, the entry into the regime could require planning and long lasting restructurings. Therefore, the planning for the entry should be initiated early enough. The new regime will have effect for taxable years beginning on or after 1 January 2010.



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