

Shipping Group newsletter*

Norway

October 2008

Flag requirement under the Norwegian tonnage tax system for the income year 2008

Norwegian tonnage taxed companies are on certain conditions subject to flag requirements. The flag requirements apply if the total share of EU/EEA flagged tonnage in Norwegian tonnage taxed companies decreased during the previous income year.

The Norwegian Directorate of Taxes has on 6 October 2008 announced that a flag requirement will apply to companies taxed under the Norwegian tonnage tax system for the income year 2008 because the share of EU/EEA flag within the tonnage tax system was reduced from 81.93% to 77.58% in 2007.

This implies that from 1 January 2008 all tonnage taxed companies must in principle have at least the same share of EU/EEA flagged net tonnage as the company had on 1 July 2005 or at the time the company entered into the tonnage tax system (if this was after 1 July 2005). An exemption applies if the total share of EU/EEA flagged net tonnage in the relevant company is 60% or higher.

If a tonnage taxed company has controlling interest in another limited company or partnership according to the Norwegian Accounting Act, the share of EU/EEA tonnage is calculated jointly (consolidated) for the parent and subsidiary. The total tonnage in the subsidiary is allocated to the parent company even if the parent company's ownership interest is lower than 100%.

It has been unclear whether a (separate) flag requirement applies to partnerships and NOKUS/CFC companies where no tonnage taxed company has controlling interest. The Ministry of Finance has in a green paper where the deadline to submit comments was 17 March 2007 proposed that there should be no flag requirement for such partnerships/ companies. The final regulations have still not been passed, but it is unlikely that the final regulations will differ from the proposal. The proposal also includes detailed regulations for calculation of the flag requirement in case of de-merger and merger of companies.

The draft regulations can be read on the following webpage:

<http://www.regjeringen.no/nb/dep/fin/dok/hoeringer/hoeringsdok/2006/Horing-forslag-til-fastsettelse-av-forsk.html?id=429667>

Companies/ groups of companies that have reduced their share of EU/EEA flagged tonnage compared to 1 July 2005/ time of entry into the tonnage tax system, must increase their share of EU/EEA tonnage back to the original level within two months from the announcement of the flag requirement from the Directorate of Taxes on 6 October 2008. This implies that the share of EU/EEA flagged tonnage must be brought back to the original level at latest 6 December 2008.

The announcement from the Directorate of Taxes can be read on the following webpage:

<http://www.skatteetaten.no/Templates/Artikkel.aspx?id=74987&epslanguage=NO>

Contacts

For more detailed information, please do not hesitate to contact your local PwC contact

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